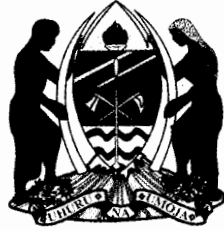


THE UNITED REPUBLIC OF TANZANIA
THE LAW REFORM COMMISSION OF TANZANIA



**REPORT OF THE COMMISSION
ON THE PROBLEM OF
CONGESTION IN PRISONS**

**PRESENTED TO THE MINISTER FOR JUSTICE AND
CONSTITUTIONAL AFFAIRS DAR ES SALAAM**

APRIL, 1994

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The Law Reform Commission of Tanzania was established by section 3 of Law Reform Commission of Tanzania Act, 1980 to take and keep under review all the Law of the United Republic with a view to its systematic development and reform.

The Commissioners are:

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2. Mr. G.B. Liundi - Full Time Commissioner
3. Hon. Pius Msekwa (MP) - Commissioner
4. Mr. H.R. Nsekela - Commissioner
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THE UNITED REPUBLIC OF TANZANIA

THE HIGH COURT OF TANZANIA

Hon. Justice E.L.K. Mwipopo,
High Court of Tanzania,
P.O. Box 9004
Dar es Salaam

10th November, 1991

Ref. No. JC/J.10/40/71
The Hon. Mr. Justice R. Mwaikasu,
Chairman,
Law Reform Commission of Tanzania,
P.O. Box 3580,
Dar es Salaam

**LETTER OF TRANSMITTAL OF THE REPORT OF THE
WORKING GROUP ON THE PROBLEM OF CONGESTION
IN PRISONS:**

Time wise, may not be very proud to transmit this Report to you now, six years after our Working Group was Commissioned by the Law Reform Commission to study the Problem of Congestion in Prisons in Tanzania Mainland.

But, every cloud has a silver line. Here, the longtime lapse has enabled our Working Group to prove conclusively that temporally and that its lasting solution lies in accepting the grave reality of the situation and the permanency of the problem, and in changing completely the policy and strategies of identified and submitted to the Government by the Executive Committee on the Problem of Congestion in Prisons in 1986/87 as improved or added upon by the recommendations contained in this Report.

Quite honestly, our Working Group feels greatly relieved to have reached this last chapter of its work despite the numerous hindrances encountered initially and throughout the working programme. Having finalized all the other contents of this Report the Working Group leaves the usual Secretarial matters of bindery including the preparation of the executive summary in item (v) of the contents etc of this Report to the Secretary of the Working Group and the Secretary to the Commission. The members of the Working Group would appreciate a lot if they will be availed a copy each of their bound Report to the Commission.

On behalf of the entire Working Group, may I in transmitting this Report to you by signing it hereunder, express our deep most appreciation to you and your predecessor the Hon. Mr. Justice H. Msumi, Commissioner G. Liundi, our Working Group's Secretary Miss F. Ngowi and the rest of your staff for the assistance rendered to our Working Group and above all for the patience in bearing with us all as we did with you all.

Yours Sincerely,

Justice Ernest L.K. Mwipopo
Chairman
Working Group on the Problem of
CONGESTION IN PRISONS

Copy to: Each Member of the Working Group.

EXECUTIVE SUMMARY

INTRODUCTION:

According to the terms of reference drawn up by the Law Reform Commission of Tanzania on the problem of Congestion in Prisons, the Working Group was required to undertake the examination of the problem and make recommendations thereof.

The Working Group on the Problem of Congestion in Prisons carried out research on the magnitude of the problem, reasons for congestion in prisons and lastly gave its recommendations on how to solve the problem.

Before the establishment of this Working Group by the Law Reform Commission of Tanzania, several committees had tried to research on congestion in both Prisons and Remand Prisons in the country. Among these, was a committee established by the State House which was known as Executive Committee. This committee was established under a special Task Force set by Government in 1986 to examine the causes of the problem of overcrowding in Prisons and to recommend policies and measures for its alleviation.

The formulation of the Project on Congestion in Prisons by the Commission was in conformity with Section 9(1) of the Law Reform Commission of Tanzania Act, 1980, which provides as follows: -

The Commission may subject to informing the Attorney General in that behalf undertake the examination of any matter without waiting for reference on it by the Attorney-General.

The magnitude of the problem of congestion in Prison became apparent to the Commission when in mid 1986 a random survey was made upon 5 prisons in the country, namely Keko in Dar es Salaam, Musoma, Tarime, Manyoni and Singida which had a total capacity of 893 prisoners only but were at that time found to be holding more than double i.e. 1934 prisoners.

RECOMMENDATIONS:

On the basis of the research conducted on the problem of congestion, the following are the recommendations to the Government on how to alleviate the problem.

(1) Expansion and Modernization of Prisons:

- (a) The Commission recommends the construction of new prisons in proportion to administrative areas, with priority given to areas with high crime rates: And while the existing prisons are rehabilitated with a view to making them modern and spacious.
- (b) The Commission recommends that the following areas be given priority in building Remand Prisons because of the serious problem of congestion or absence of prisons facilities in the neighborhood.

- i) Dar es Salaam - Ilala and Kinondoni Districts
- ii) Coast - Kibaha and Kisarawe District
- iii) Arusha - Arusha Municipality and Monduli Districts
- iv) Kilimanjaro - Hai, rombo and Mwanga District
- v) Bukoba - Bukoba town, Muleba and Biharamulo District
- vi) Singida - Singida Town
- vii) Iringa - Mufindi District and Makete District
- viii) Mbeya - Ileje, Mbozi and Kyela District
- ix) Morogoro - Morogoro Municipality
- x) Mwanza - Mwanza Municipality and Ngudu District
- xi) Shinyanga - Shinyanga town

The above recommendation has been undertaken inter-alia the following reasons:

- a) the vastness of the country;
- b) transport and communication problem;
- c) the rates of population
- d) crime growth and
- e) multiplication of administrative areas.

Consequently, any future demarcation of new administrative areas should also take into account the construction of new Police Stations, Courts and Prisons. However, these new prisons, police stations and courts should be constructed to supplement the old prisons, police stations and courts within the specific problematic areas in the country.

(2) Delays in Hearing of Cases:

As part of an endeavor to solve the chronic problem of delays in the hearing of cases, the Commission commends the action taken by Judiciary in establishing Case Flow Management Committees and a two —shift system of hearing cases in District and Resident

Magistrate Courts and recommends that these Committees should be strengthened legislatively.

The Commission recommends further that the Criminal Procedure Act, 1985 Section 366 (2) (b) should be amended so that failure by the convicted appellant to appear at the time of hearing of the appeal should not bar the Judge from proceeding with the hearing, even in cases where the appellant has indicated the wish to be present.

As regard delays in the delivery of copies of judgment to appellants who are in prison, the Commission recommends that adequate typing facilities and competent personnel should be provided to District and Resident Magistrates, courts with appropriate incentives.

(3) The Need to Establish a Research Unit
(Research Unit within the Ministry of Home Affairs)

To improve the process of investigation of cases the Commission recommends that a Research Unit be established with the aim of conducting research into trends of criminality in Tanzania and advise the government on appropriate measures to deal with the problem. The Unit may inter alia do the following: -

- i) conduct research on the causes of crime in Tanzania;
- ii) the trends in criminality in the country
- iii) to act as custodian for all crime statistics in the country in the Field of Crime Prevention, Treatment and Rehabilitation of Offenders;
- iv) to co-operate with other local and international organizations and institutions with similar aims in disseminating information on crime and possible remedies.
- v) To act as the advisory organ to the government on all matters relating to crime prevention and the treatment of offenders.

It is hope that with such an organ the Government will be kept informed at all times, on the crime situation in the country to enable it take appropriate measures to arrest explosive situation on time. It is envisaged that in the long run more people will refrain from indulging into criminality and thus keep themselves away from committing crimes hence reducing congestion in the prisons.

(4) Monthly and Annual Returns of Inmates:

Monthly and annual returns of inmates from the Prison Department e.g. delay in criminal trial which is submitted to the appropriate courts and the Registrar of the High Court should also be made available to the Chairmen of the Case Flow Management Committees

in their respective Districts, Regions and Zones as well as the Director of Public Prosecutions. These returns should provide the necessary data on the current situation of inmate to enable the determination of appropriate action.

(5) Establishment of the Summons Serving Squad:

The Commission recommends for the establishment of a Summons Serving Squad in all regional and district crime offices. These squads could be placed under the officer-in-charge of prosecution for easy of co-ordination between investigators, prosecutors and the courts.

It is further recommended that these squads be equipped with motor cycles to enable them perform their tasks efficiently; allowances should be paid to members of these squads to motivate them.

Further since the current penalty for failure to obey a witness summons is shs.500/= only a trivial amount which is rarely enforced by the courts, the Commission recommends that the amount of penalty be increased to shs.5,000/= and courts should strictly enforce it, unless a reasonable explanation is given for failing to obey summonses.

(6) Resettlement of Habitual Offenders:

The Commission recommends that habitual criminals, life prisoners and those convicted of serious offences be kept in maximum-security prisons. Only persons serving light sentences or those on parole or about to be released should be kept in camps.

For the purpose of facilitating supervision of habitual criminals, the system of police supervision should be strengthened in order to arrest the problem of recidivism. This system of supervision can effectively be maintained by the criminal records office which should be established at all Regional CID Offices.

(7) Principle of Bail:

The Commission recommends that Section 148 of the Criminal Procedure Act of 1985 should be reviewed in order to maintain the principle that, that bail is a right (and not a privilege) of the accused person. That the accused is presumed to be innocent until proved guilty and that an accused person should not be denied bail as a means of punishing him.

(8) Extra — Mural Penal Employment:

The Commission makes following recommendations:

- a) the Extra-Mural Penal Employment Scheme should be revived and strengthened all over the country;
- b) the Department of Justice should embark on an educational programme to enlighten the relevant authorities on the existence and implementation of the scheme, its advantages and its functioning:

- c) the prison Act No. 34 of 1967 should be amended to include prisoners serving up to two years imprisonment to benefit from the scheme as opposed to the present limitation of one year;

Consequently the scheme should remain in its present form and that prisoners serving sentences of up to two years be eligible for the scheme, on the condition that those serving sentence of over one year must serve at least one quarter of their sentences before qualifying for release under the Extra-Mural Penal Employment Scheme.

Further, courts should be empowered to disqualify a person duly convicted from benefiting from the scheme even though the sentence does not exceed two years. Reasons should be given every case of disqualification.

- d) The Organization which will utilize the labour of Extra-Mural Penal Employment Scheme be extended to include: Government Departments, all Public Enterprises, indulging Parastatal Organizations and local Government Authorities but under no circumstances should private individuals be provided with prisoner under the scheme.

(9) Minor Offenders:

The Commission recommends that at no time should development levy defaulters, idle and disorderly persons, rogues and vagabonds who are first offenders be imprisoned in jail. The only substantive penalty for the development levy defaulters, idle and disorderly persons, rogues and vagabonds should be fine and for those who fail to pay the fine imposed by the courts should be ordered to do manual labour or any other community based programme given to them by the District/City/Municipal/Town Councils/Village government concerned.

I:

Amount of Development Levy due or fined	Period of serving community service
Exceed 10,000/=	Not less than 6 months
Exceeds 5,000/=	Not less than 3 months
Exceeds 1,000/= but not less than 5,000/=	Not less than 45 days
Less than 1,000/=	30 days

II: Under other Laws:

All offences with substantive penalty not exceeding two years imprisonment or fine not exceeding shs. 10,000/= should be as follows:-

Offences Suitable for Summary Trial as a Measure to Reduce Congestion in Prisons:

In principle all misdemeanors under the penal code:

Section 75	Unlawful assembly -----	-1 year
Section 76	Riot -----	-2 years
Section 89A	Watching and setting (Consent of DPP to be removed)-----	6 months
Section 89B(1)	Intimidation (Consent of DPP to be removed)-----	1 year
Section 100	Personating public officers -----	-2 years
Section 101	Threatening injury to persons employed in the public service -----	-2 years
Section 111	Compounding felonies -----	-2 years
Section 112	Compounding penal actions -----	-2 years
Section 113	Advertisement for stolen property -----	-2 years
Section 114	Contempt of Court- -----	6 months
Section 114A	Willfully preventing obstructing service or execution of process -----	1 year
Section 116	Escaping from lawful custody -----	2 years
Section 116A	(1)-Absence from Extra-Mural Employment -----	2 years
Section 122	Giving false information to a person employed in the public service -----	6 months
Section 124	Disobedience of lawful orders -----	2 years
Section 125	Insult to religion -----	2 years
Section 127	Trespassing on burial places -----	2 years
Section 129	Uttering words with intent to wound religious feelings -----	1 year
Section 143	Detention in premises with intent or	

	in brothel -----	2 years
Section 148	Brothels -----	2 years
Section 170	Common nuisance -----	1 year
Section 171	Gaming houses -----	1 year
Section 172	Betting houses -----	1 year
Section 173B	Chain Letters -----	6 months
Section 175	Traffic in obscene publication -----	2 years
Section 176A	Harbouring Common Prostitutes -----	1 st shs.500 2 nd shs.1,000
Section 177	Rogue and vagabonds -----	3 months/1 year
Section 178(3)	Importing and Selling uniforms without authority -----	6 months/2,000/= fine
Section 179	Negligent Act likely to spread infection -----	2 years
Section 180	Adulteration of food or drink -----	2 years
Section 181	Sale of noxious food or drink -----	2 years
Section 185	Fouling air -----	2 years
Section 186	Offensive trades -----	1 year
Section 235	Handling of PrisonersSubstances in negligent manner -----	6 months
Section 238	Conveying person by water for hire in unsafe or overloaded vessel -----	2 years
Section 239	Danger or obstruction in public way or line of navigation -----	Fine
Section 253	Wrongful confinement -----	1 year/ 3000/=
Section 256	Unlawful labour -----	2 years
Section 265	Stealing (pick pocketing) where amount stolen does not exceed shs.10,000/= -----	?

Section 304	Cheating -----	3 years
Section 308	Pretending to tell fortunes-----	2 years
Section 309	Obtaining registration etc by false -----	2 years
Section 310	False declaration for passport -----	2 years
Section 312A(2)	Unlawful possession of Government Stores -----	2 years
Section 325A(3)	Unlawful possession of service store -----	2 years
Section 325	Injuring animals -----	2 years
Section 329	Removing boundary marks with intent to defraud...3	years
Section 332A	Defacing currency notes -----	Fine 1000/=
Section 357	Melting down of currency -----	6 months
Section 360	Uttering counterfeit-----	2 years
Section 362	Uttering metal or metal coin -----	1 year
Section 366	Paper and dyes for postage stamps -----	1 year
Section 369	Personation -----	2 years
Section 370	Falsely acknowledging deeds; etc. -----	2 years
Section 372	Lending etc. certificate for personation -----	2 years
Section 373	Personation of person named in a testimonial of character -----	1 year
Section 374	Lending etc. testimony testimonial for personation -----	2 years
Section 381	Attempt to commit offences-----	2 years
Section 383	Neglect to prevent felony -----	2 years
Section 389	Accessories after the fact to misdemeanours -----	2 years
Section 390	Soliciting or inciting the commission of an offence -----	2 years

10. Establishment of Parole and After-care Service in the Prisons Department:

- a) A parole system, which allows prisoners serving long sentences to be eligible for release on specific conditions before the expiry of their sentences, be introduced in Tanzania. The Commission is aware that this recommendation has previously been advanced by Executive Committee which submitted its report to the Government in 1986. The Commission recommends that report (Appendix D) be adopted for implementation.
- b) In introducing a Parole system in our prisons, the Government will need to establish a special machinery to supervise the paroles. The Commission recommends that a Parole and After-Care Division be established within the Prison Department to undertake this assignment.
- c) The Division proposed in par. (b) above should also take care of all prisoners released from prison from the time for their release until they reach their place of resident. The Division shall also communicate with village authorities and prospective employers with a view of finding employment/resettlement for the released inmates.

PART 1:

INTRODUCTION:

- 1:1** Normally, Prisons have three basic functions. Firstly, to secure and control offenders, secondly, to punish offenders and thirdly to rehabilitate or reform offenders. The use of prisons as a means of dealing with society's offenders is of fairly recent origin. In England, the first Prison Act was passed in 1898. Before then prisons and jails were places where people were indiscriminately locked up to await execution, torture, banishment or the arrival of a Magistrate when he came on his circuit. Current pathological assessment of prisons reflects basically three schools of thought. Firstly, hardliners (or conservatives) believe that prisons should be retained as places of punishing offenders and protecting the society outside. They want prisons conditions to be harsh and retributive. Secondly, there are those who believe that prisons are indispensable but should be reformed to make them less punitive and more humane with more of rehabilitation programmes. Finally, there are some who subscribe to the view that prisons are instruments of revenge that they serve no purpose and should be phased out immediately. In this group there are some penologists who have labeled prisons as 'the belly of the beast', 'the black flower of our Civilization', 'intrinsically evil', 'barbaric' etc.

Be that as it may, there seems to be consensus that a progressive penal system should treat prisoners as human beings. In other words any form of inhuman, cruel and degrading treatment should be avoided. Tanzania subscribes to these principles, at least in theory. In practice it would appear that imprisonment has continued to serve largely a punitive rather than a reformatory role. The problem of congestion in Prisons means that the general welfare of prisoners has suffered in recent years thus justifying the retributive rather than reformatory grounds for imprisonment. With this background there is no doubt that the appointment of a Working Group has been quite timely.

1:2 Appointment:

Our Working Group on the Problem of Congestion in Prisons was appointed in the last half of 1986 and we held our first working session on 5th May, 1987.

1:3 Terms of Reference:

The Terms of reference given were to examine the nature, magnitude and likely causes of the problem of congestion in prisons of Tanzania Mainland and to make any appropriate legislative or administrative recommendations or otherwise to the Commission for the purpose of eradicating or minimizing the problem.

1:4 Locus Stand of the Commission:

The formation of the project on Congestion in prisons by the Commission was in conformity with Section (1) of the Law Reform Commission of Tanzania Act, 1980 which provides that: -

The Commission may subject to informing the Attorney-General in that behalf undertake

the examination of any matter without waiting for a reference on it by the Attorney-General.

The letter of reference on this project by the Commission to the Attorney —General dated 4th July 1986, is marked APPENDIX A . This letter is the source of the terms of reference of working group.

1:5 Executive Committee:

Prior to the establishment of this Working Group, another Government Committee known as the Executive Committee examined through its special Task Force the same problem of congestion in prisons and made recommendations which are quite relevant to our present exercise as can be seen from its report in appendix B attached herewith.

1:6 The Trigger:

The magnitude of the problem of congestion in Prisons became apparent to the Commission when in mid 1986 a random survey was made upon 5 prisons in the country namely Keko in Dar es Salaam, Musoma, Tarime, Manyoni and Singida which had a total capacity of 893 prisoners only but were at that time found to be holding more than double that number i.e. 1934 prisoners.

1:6 METHODOLOGY OF WORK

1:6:1 Work-Programme of Regular meetings of all members of the Committee with an allowance being made for smaller groups of members for doing specific tasks which nevertheless would have to be approved by the working groups at the end of the day.

1:6:2 Relevant data collected was left in the hands of the Secretary of the Working Group or any other member as assigned by the Working Group. Data was to be collected mainly from the Prison Department, Police Force and Bureau of Statistics.

1:6:3 Library Research

Library Research was conducted in Dar es Salaam. It involved physical perusal of Statutory Legislation related to the problem of congestion in prisons. The Committee collected several papers and literary work on this field.

1:6:4 Filed Survey

Visits to prisons in selected regions were made as follows: -

The first team visited Dodoma, Singida, Tabora and Shinyanga. Iringa and Mbeya Regions were visited by the second group. Mwanza, Kagera and Mara regions were visited by the 3rd team. Arusha, Kilimanjaro and Tanga Regions were visited by the 4th team and lastly Morogoro and Dar es Salaam Region were visited by the fifth team.

Each team had the opportunity of having factual observation of the situation and discussing with various people, including the Regional Prison Officers of the respective regions, officers in-charge of the prisons, Regional Commissioners and Regional Development Directors, Prisons Officers and other prison visiting justices.

In the course of field investigation the following aspects were covered, inter-alia;

- congestion problem in the particular prisons
- inspecting the accommodation premises and getting figures of its capacity and the actual prison population on the day of the visit.
- Reaction of prison officers and inmates and other interviewers on the terms of reference and whether problem of congestion may be alleviated by statute or administratively.
- Emphasis was made on the fact that the views and opinion they expressed at the meeting did not necessarily reflect those of Prison Department; and that they should feel free to say what they conceived to be the nature and the magnitude of the problem;
- How has the problem of congestion affected the discipline of the officers? Is congestion conducive to the riot mentality on the part of prisoners?
- Is the rehabilitation process hindered by over crowding etc.

1:6:5 The Working Group as a group or by its individual or its team held audience with a few personalities or group of officials experienced in prisons establishment or policy or with the cause of Congestion in Prisons.

PART II

THE PROBLEM OF CONGESTION IN PRISONS

2:1 **The Rationale for Imprisonment:**

Imprisonment entails basically the curtailment of freedom of movement, of association and of speech of a criminal suspect or convict or of a civil debtor by keeping him in confinement in premises or areas, which are government control of a specialized department called the Tanzania Prison Service. The source of the problem is threefold, firstly, the existence of the internationally prevailing modern policy practice of the institutionalizing of the prison service as a means of punishing criminal offenders and civil debtors. Secondly the existence of penal legislations which provide confinement or imprisonment as a punishment for committing criminal offences or civil wrongs. Thirdly it is the existence and increase of civil criminality in the societies as a whole. Without criminal activities there would be no place for confining the suspects or convicts. Indeed, without the penalty of imprisonment in our legislations there would be no imprisoned convict. The problem of congested prisons would not arise at all!

2:2 **Practical Reality:**

The ideal situation of having no imprisonment at all as explained in paragraph 2:1 is far from the practical reality of any modern state. The crux of the problem now is the irrational proportion between the space available for confining criminal suspects and convicts and the actual number of inmates themselves. The problem of congestion can only arise when there are more inmates than capacity space for keeping them inside. If it were possible to have the room capacity of prisons in proportion to the increase of prisoners against there would be no problem of congestion.

On the other hand the legislative, administrative, investigative and initial with powers to confine suspects, imprisonment are not responsible or answerable for the upkeep or overflow of inmates.

The Prison Department too, has no power to refuse accepting into custody inmates above the capacity of the prison. Actually there is no consultation or coordination at all between the sentencing authority which orders people to be kept into custody and the custodian authority which keeps the inmates. The day to day activities of the two organs and the laws which regulate and legalize their existence, powers and activities are parallel to and totally oblivious to the existence and problems of the other such that the sentencing authority would rather hear or probation officer than the Custodian Authority i.e. the Prison Officer.

2:3 **ELABORATION OF THE PROBLEM OF CONGESTION IN PRISON BY DATA:**

The best elaboration of the problem of Congestion can be done by data as shown in table A to F herein below which cover all the 20 regions of Tanzania Mainland.

Each table reflects the number of inmates of all categories in Tanzania Mainland at the beginning of each new financial year which is the 1st July, The latitudals columns show the number of each different category of inmates in the particular region with the total number of inmates in prison in all the regions for each category of inmates ending up with the rational total of actual number of the inmates and the required national capacity of the

prisons thereof.

The longitudinal columns show the names of the 20 regions covered and the different categories of the inmates in abbreviations which mean the followings: -

RPCT	-	Remedies
RDCT	-	Remedies by District Courts
RHCT	-	Remedies by High Courts
REOC	-	Remedies for Economic and Organized
CCP	-	Convicted Condemned Prisoners (Sentenced to death)
COP	-	Convicted Ordinance Prisoners (Sentenced to imprisonment)
POD	-	Political and other Detainees
HCR	-	Habitual Criminals

The last two longitudinal columns show the total actual number of inmates incarcerated in each region and the required capacity of prisons in each region.

2:3:1 RANDOM SAMPLE DATE:

It is worth mentioning at this stage that the sample date which triggered the Commission to form our Working Group on the Problem of Congestion in Prisons was picked up in 1986 at random from a few individual prisons which data our working group has not incorporated into Table A .

TABLE A

**1.7.1986 (NUMBER OF INMATES OF ALL CATEGORIES IN TANZANIA
MAINLAND ON 1ST JULY, 1986**

Mkoa (Region)										
1. Arusha	205	386	127	89	-	787	-	-	1594	336
2. DSM	538	605	501	-	5	-	-	6	3344	1080
3. Dodoma	144	366	65	502	104	1783	-	2	2966	1123
4. Iringa	85	488	135	-	-	1517	-	1	2226	725
5. Kagera	95	561	-	403	-	1247	-	37	2344	1075
6. Kigoma	79	213	8	1	-	640	-	-	1943	759
7. Kilimanjaro	218	289	135	162	-	979	-	-	1783	950
8. Lindi	137	27	3	13	6	951	-	-	1137	357
9. Mara	48	468	69	122	-	1166	-	30	1903	1156
10. Mbeya	99	296	86	132	-	1702	-	62	2377	1001
11. Morogoro	99	132	74	53	-	3876	-	-	4234	3294
12. Mtwara	69	145	31	40	-	1012	-	5	1302	1004
13. Mwanza	265	454	215	122	14	1275	-	-	2345	1372
14. Pwani	34	60	-	-	-	1679	-	-	1773	770
15. Ruvuma	27	90	40	43	11	1071	-	1	1283	790
16. Rukwa	53	95	22	43	-	988	-	-	1201	550
17. Singida	153	476	77	-	-	669	-	-	1375	190
18. Shinyanga	212	749	158	-	-	1238	-	5	2362	696
19. Tabora	165	310	122	42	6	1287	-	-	1932	1127
20. Tanga	253	235	91	230	9	1855	-	3	2676	1173
Jumla	2978	6445	1959	1997	156	6	152	410		

TABLE B
IDADI YA WAFUNGWA WA AINA ZOTE TANZANIA BARA YA TAREHE 1/7/1987 (NUMBER
OF
INMATES OF ALL CATEGORIES IN TANZANIA MAINLAND ON 1ST JULY, 1987

Mkoa (Region)										
1. Arusha	127	414	132	33	-	787	-	-	1450	336
2. DSM	992	529	100	87	20	744	-	24	3689	1080
3. Dodoma	129	317	21	961	116	1295	-	3	2842	1125
4. Iringa	104	360	63	-	-	1313	-	-	1840	725
5. Kagera	135	706	139	6	-	1226	-	32	2244	1075
6. Kigoma	46	191	27	47	-	746	-	-	1057	759
7. Kilimanjaro	109	388	116	184	-	849	-	-	1646	950
8. Lindi	98	83	4	20	6	998	1	-	1210	-
9. Mara	75	925	149	170	-	947	-	12	2278	1157
10. Mbeya	70	230	101	135	1	1855	-	636	2448	1001
11. Morogoro	115	209	44	110	4	3257	-	-	3739	3290
12. Mtwara	76	143	48	56	-	1105	1	6	1435	1004
13. Mwanza	250	363	659	-	21	1722	-	-	3015	1372
14. Pwani	11	38	74	-	-	4221	-	-	1545	770
15. Ruvuma	31	123	34	50	-	114	-	-	1352	550
16. Rukwa	61	89	25	61	-	880	-	-	1116	790
17. Singida	222	497	30	-	-	662	-	-	1371	390
18. Shinyanga	310	753	114	-	-	1042	-	4	2001	696
19. Tabora	68	-	71	39	18	965	1	-	1438	1125
20. Tanga	297	-	71	15	15	1600	-	-	2368	1179
JUMLA (TOTAL)					201		3	117		

TABLE C

IDADI YA WAFUNGWA WA AINA ZOTE TANZANIA BARA YA TAREHE 1/7/1988 (NUMBER OF INMATES OF ALL CATEGORIES IN TANZANIA MAINLAND ON 1ST JULY, 1988)

Mkoa (Region)										
1. Arusha	111	396	106	137	-	772	-	-	1522	336
2. DSM	88	583	140	70	22	2154	-	-	3850	1080
3. Dodoma	168	297	60	398	126	1558	-	4	2638	1125
4. Iringa	96	289	67	-	-	1585	-	-	1764	725
5. Kagera	49	672	201	218	-	1155	-	32	2327	1075
6. Kigoma	35	151	4	48	-	627	-	-	865	759
7. Kilimanjaro	122	167	181	203	-	1148	-	-	1819	950
8. Lindi	65	77	8	28	11	936	-	-	1125	357
9. Mara	58	718	74	71	-	920	-	2	1845	1156
10. Mbeya	129	189	100	104	-	1750	-	26	2298	1001
11. Morogoro	139	257	72	96	2	2845	-	-	3411	3290
12. Mtwara	129	110	52	21	4	1498	-	2	1824	1004
13. Mwanza	293	269	207	48	30	1668	-	1	2516	1372
14. Pwani	63	79	-	-	-	1304	-	-	1446	770
15. Ruvuma	50	156	32	11	3	969	-	-	1221	550
16. Rukwa	59	150	33	84	-	1023	-	-	1349	790
17. Singida	200	358	64	-	-	729	-	-	11341	390
18. Shinyanga	83	343	168	18	-	901	-	-	1613	696
19. Tabora	75	242	236	17	24	1097	-	-	1591	1127
20. Tanga	216	232	93	144	29	632	-	2	2348	1173
JUMLA (TOTAL)										

TABLE D

**IDADI YA WAFUNGWA WA AINA ZOTE TANZANIA BARA YA TAREHE 1/7/
1989 (NUMBER OF
INMATES OF ALL CATEGORIES IN TANZANIA MAINLAND ON 1ST JULY,
1989)**

Mkoa (Region)										
1. Arusha	141	167	108	8	-	1173	-	-	-	31
2. DSM	934	590	132	-	50	2119	-	29	3924	117
3. Dodoma	140	234	101	200	151	1891	-	44	2721	117
4. Iringa	117	489	90	-	3	1411	-	-	2110	72
5. Kagera	110	828	181	126	-	1331	-	29	-	112
6. Kigoma	64	230	11	12	-	642	-	-	962	107
7. Kilimanjaro	87	169	204	65	-	1331	-	-	1856	94
8. Lindi	26	84	9	-	26	1026	-	-	1171	53
9. Mara	90	533	142	4	-	1123	-	2	1894	120
10. Mbeya	134	203	102	32	-	2154	-	25	2650	100
11. Morogoro	120	345	30	15	-	2952	-	-	3462	355
12. Mtwara	154	203	102	32	-	2154	-	25	2659	100
13. Mwanza	178	521	137	33	21	1196	-	-	2086	155
14. Pwani	72	17	-	-	-	1434	-	-	1523	77
15. Ruvuma	123	177	35	2	8	833	-	-	1178	69
16. Rukwa	62	183	17	11	-	1101	-	35	1409	55
17. Singida	198	225	89	-	-	671	-	4	1187	43
18. Shinyanga	231	544	21	-	-	1025	-	-	1821	56
19. Tabora	36	272	135	5	20	1091	-	-	1559	112
20. Tanga	134	329	50	43	50	1580	-	4	2190	165
JUMLA (TOTAL)	3131	6643	1696	658	329	28238	-	160	40855	2118

TABLE E:

IDADI YA WAFUNGWA WA AINA ZOTE TANZANIA BARA YA TAREHE 1/7/1990
(NUMBER OF INMATES OF ALL CATEGORIES IN TANZANIA MAINLAND ON
1ST JULY 1990)

Mkoa (Region)										
1. Arusha	189	403	113	-	-	1117	-	-	1832	318
2. DSM	1217	368	125	60	55	2503	-	17	4545	1175
3. Dodoma	174	315	112	196	140	2237	-	5	3179	1173
4. Iringa	141	390	116	-	-	1733	-	-	2339	726
5. Kagera	36	688	239	61	-	1540	-	27	2591	1125
6. Kigoma	56	176	9	16	-	723	-	-	982	1071
7. Kilimanjaro	144	279	172	11	-	1075	-	1	1682	940
8. Lindi	42	86	8	10	27	1010	-	1	1184	531
9. Mara	93	844	133	15	-	961	-	3	2051	1206
10. Mbeya	82	339	126	7	-	2078	-	27	2697	1001
11. Morogoro	160	290	164	3	-	3361	-	-	4278	3555
12. Mtwara	125	98	4	-	9	1636	-	4	1876	1004
13. Mwanza	141	467	142	27	22	1655	-	-	2454	1852
14. Pwani	117	6	-	-	-	1431	-	-	1554	775
15. Ruvuma	31	188	33	10	-	860	-	-	1122	695
16. Rukwa	74	190	34	9	-	1278	-	-	1585	538
17. Singida	248	217	90	-	-	808	-	-	1263	439
18. Shinyanga	107	506	123	-	-	1266	-	-	2002	566
19. Tabora	95	159	188	6	23	1202	-	-	1673	1127
20. Tanga	148	288	17	65	41	1885	-	222	2466	1656
JUMLA (TOTAL)	3329	6397	1947	496	318	30661	-	207	43353	21188

TABLE F:

**IDADI YA WAFUNGWA WA AINA ZOTE TANZANIA BARA YA TAREHE 1/7/1991
(NUMBER OF INMATES OF ALL CATEGORIES IN TANZANIA MAINLAND ON
1ST JULY, 1991)**

Mkoa (Region)										
1. Arusha	209	257	69	4	2	1310	-	-	1951	318
2. DSM	710	575	521	60	67	2654	-	22	4609	1175
3. Dodoma	229	436	62	202	145	2196	-	9	3279	1175
4. Iringa	187	334	52	-	-	1866	-	-	2439	826
5. Kagera	45	647	13	35	-	1367	-	14	2421	1125
6. Kigoma	39	127	81	7	-	1002	-	-	1729	1071
7. Kilimanjaro	184	375	62	4	-	1102	-	2	1729	940
8. Lindi	24	62	8	4	39	1111	-	-	1348	531
9. Mara	203	674	163	4	-	1467	-	-	2511	1286
10. Mbeya	153	273	143	15	-	2045	-	20	2649	1001
11. Morogoro	270	411	48	6	-	3952	-	-	4687	3555
12. Mtwara	85	96	8	-	8	1562	-	5	1764	1004
13. Mwanza	254	497	188	44	30	2130	-	-	3143	1852
14. Pwani	43	97	-	-	-	3194	-	-	1534	779
15. Ruvuma	39	98	45	2	7	955	-	1	1147	695
16. Rukwa	43	198	38	16	-	1375	-	-	1670	538
17. Singida	182	100	36	-	1	895	-	-	1304	439
18. Shinyanga	41	556	138	-	-	1525	-	-	3360	366
19. Tabora	76	177	226	6	20	1397	-	-	1902	1127
20. Tanga	172	246	15	107	51	2172	-	-	2763	1656
	3188	6426	2216	516	370	33477	-	73		21188

TABLE AA: PRISON POPULATION (NATIONAL)

I	(a)	1960 — 1965	-	11,436
		1970 — 1975	-	23,505
		1980 — 1985	-	36,233

(b) Average maximum capacity during the years:

1960 — 1965	-	12,495
1970 — 1975	-	18,332
1980 — 1985	-	19,433

II BB: RATE OF GROWTH OF PRISON POPULATION:

1970 — 1975	-	63.4%
1980 — 1985	-	26.5%

CC: DELAY IN THE DISPOSAL OF CRIMINAL CASES:

DATE	PRISON	OVER 2 MONTHS TO 1 YEAR	OVER ONE YEAR TO THREE	OVER 3 YEARS
1.5.87	KEKO	397	252	61
1.5.87	REMAND MOROGORO	62	40	17
1.5.87	SHINYANGA	96	32	23
1.5.87	ALL PRISONS IN TANZANIA MAINLAND	5,491	3,222	726

DD: THE PRESIDENTIAL PARDON:

BETWEEN	1960 — 1961	68,616.1	6,200
BETWEEN	1970 — 1975	632.7	9,664
BETWEEN	1980 — 1985	217,398	17,915
	1987 — as of 1.5.87	26,816	1,833

EE: MINIMUM SENTENCE PRISONER

YEAR	NO. OF ALL CONVICTS IN JAIL	MSA, 1972 CONVICTS (NUMBER OF)	MSA CONVICTS AS A% ALL CONVICTS IN JAIL 1972
1973	32,107	5,374	16.7%
1975	34,040	6,219	18.3%
1982	38,524	6,895	17.8%
1985	28,933	7,006	24.2%
	33,685	7,874	23.4%

FF: ECONOMIC AND ORGANISED CRIME REMAIN PRISONERS

YEAR	TOTAL NO. OF REMAND PRISONERS	REMAND PRISONERS UNDER THE ECONOMIC AND ORGANISED CRIME CONTROL ACT, 1984	EXPRESSED AS % OF ALL REMAND PRISONERS
MAY 1, 1987	12,372	2,353	19%

G.G: EXTRA — MURAL PENAL EMPLOYMENT

YEAR	TOTAL NUMBER OF CONVICTS IN JAIL	NO. OF CONVICTS SERVING 6 MONTHS IMPRISONMENT OR LESS	NO. OF CONVICTS SERVING 24 MONTHS IMPRISONMENT OR LESS	ACTUAL NO. OF PRISONERS ON EXTRA MURAL EMPLOYMENT
1972	32,107	17,771	7,787	2,881
1973	34,040	18,760	8,308	3,032
1974	34,789	16,896	9,035	2,155
1975	38,724	2,005	99.4	1,856

**HH: TOTAL NUMBER OF CONVICTS IN THE PRISONS FOR THE YEARS
SHOWN BELOW**

YEAR		
1960	10,218.8	Yearly Average for 6 years 11,426 Total - 68,616.1
1961	11,690.3	
1962	10,108.3	
1963	11,166.1	
1964	11,436.4	
1965	14,046.2	
1966	14,624.2	Yearly Average for 4 years 16,821.3 Total - 67,285.1
1967	17,971.8	
1968	15,729.2	
1969	18,959.2	
1970	18,370.6	Yearly Average for 4 years 23,505.5 Total - 141,032.7
	18,971.4	
	21,868.4	
	23,982.2	
	27,717.8	
	30,022.3	
1976	30,106.6	Yearly Average for 4 years 30,775.2 Total - 123,100.7
1977	31,584.2	
1978	30,542	
1979	30,867.8	
1980	33,294.5	Yearly Average for 6 years 36,233 Total - 217,398
1981	33,835.9	
1982	32,648	
1983	36,403	
1984	39,107.8	
1985	42,108.8	

II: HIGHLY CONGESTED PRISONS AS ON 1/5/87

S/NO	PRISON	AUTHORISED ACCOMMODATION	CONVICTS	UNCONVICTED	TOTAL
Dar es Salaam	1. Keko	248	98	1,480	1,558
	2. Ukonga	640	1770	181	1951
Morogoro	3. Mahabusu Morogoro	42	110	239	349
Shinyanga	4. Shinyanga	42	163	209	378
Mwanza	5. Butimba	818	1057	616	1,673
Dodoma	6. Isanga	688	704	1145	1,849
Iringa	7. Iringa	95	232	379	611
Mara	8. Musoma	195	219	451	670
Kagera	9. Bukoba	304	228	565	793
Mbeya	10. Ruanda Mbeya	320	408	505	913
Tabora	11. Uyui	588	563	248	811
Kilimanjaro	12. Karanga Moshi	640	786	727	1,413
Tanga	13. Maweni	188	784	432	1,216
Singida	14. Singida	112	223	332	555
Arusha	15. Arusha	195	394	653	957

**JJ: POPULATION PROJECTION — MIDYEAR ESTIMATES AS REVISED IN MAY
1983 (300)**

YEAR	MAINLAND	ZANZIBAR	TANZANIA
1961	10266	301	10567
1962	10323	309	10832
1963	10786	317	11103
1964	11055	326	11381
1965	11332	335	11667
1966	11615	344	11959
1967	11910	353	12263
1968	12220	363	12583
1969	12538	373	12911
1970	12864	383	13247
1971	13325	394	13719
1972	13803	404	14027
1973	14298	415	14713
1974	14811	426	15237
1975	15391	438	15829
1976	15895	450	16345
1977	15895	450	16345
1978	16952	474	17426
1979	17504	487	17994
1980	18080	500	18580
1981	18658	513	19171
1982	19255	527	19782
1983	19871	541	20412
1984	20506	556	21062
1985	21162	588	22462
1987	22611	606	22462
1988	23372	625	23997
1989	24159	643	24802
1990	24972	663	25635
1995	29589	787	30372
2000	35063	946	36009

KK: FROM BUREAU OF STATISTICS POPULATION FIGURES OF TANZANIA

YEAR/CYCLE	MAINLAND	ZANZIBAR
1960 — 1965	2.47	2.68
1965 — 1970	2.54	2.68
1970 — 1975	3.59	2.69
1975 — 1980	3.22	2.65
1980 — 1985	3.15	2.66
1985 — 1990	3.31	2.99
1990 — 1995	3.39	3.43
1995 - 2000	3.40	3.68

* These population figures refer to mid — year estimates for Mainland and Zanzibar for period between 1961 - 2000

(PRISON CAPACITY AND CORRESPONDING ACTUAL POPULATION OF PRISONERS IN SELECTED PRISONS)

GEREZA (PRISON)	ENEO LA CHUMBA^{sq^{ft}}	WANAOSTAHILI (REQUIRED CAPACITY)	WALIOKUWAMO (ACTUAL INMATES)	MAELEZO EXPLANATION
Isanga (Dodoma)	450	15	25	TB Wing
Singida	300	10	56	
Arusha	450	15	76	
Karanga (Moshi)	90	3	11	
Maweni (Tanga)	600	20	42	TB Wing
	30	1	5	TB Wing
Iringa	240	8	58	
Ruanda (Mbeya)	630	21	81	
Keko (Dar es Salaam)	450	15	83	
	630	210	64	
Ukonga (Salaam)	600	20	43	

TABLE I:

INMATES POPULATION BY RETURNS ON 1986
 MAFUNGULIO YA WAFUNGWA/MAHABUSU
 MAGEREZA TANZANIA BARA KWA TAREHE 1/4/1986

Mkoa (Region)								
Arusha	110	448	213	-	967	-	-	1738
DSM	615	719	245	-	1508	13	5	3111
Dodoma	158	388	526	100	1699	4	2	2877
Iringa	94	521	128	-	1571	-	-	2314
Kagera	325	558	123	5	1168	-	37	2216
Kigoma	103	209	10	-	624	-	-	946
Kilimanjaro	162	550	163	-	980	-	-	1855
Lindi	102	48	15	6	1020	2	4	197
Mara	105	729	81	-	1103	-	27	2055
Mbeya	107	185	254	1	1799	-	38	2384
Morogoro	120	303	159	-	3839	-	-	4421
Mtwara	103	179	83	-	1150	3	5	1523
Mwanza	391	597	214	21	1417	-	-	2640
Pwani	62	66	-	-	1833	-	-	1961
Rukwa	81	104	61	-	979	-	-	1225
Ruvuma	53	146	37	-	999	-	-	1235
Shinyanga	134	780	177	-	1200	-	-	2295
Tabora	133	373	152	7	1235	1	1	1902
Tanga	191	341	125	9	1554	-	10	2230
Singida	127	444	73	-	753	-	-	1387
Jumla	3276	7688	2839	155	27398	23	133	41512

12.12.12 AGE OF PRISON FACILITIES

The Working Group listed down the existing prison facilities and the period (year) each prison was built as shown in Table J herein below. Where there had been any extension to an existing prison, such extension for the purpose of this work has been treated as a new prison.

TABLE J:

IDADI YA MAGEREZA YOTE TANZANIA BARA PAMOJA NA MWAKA WA KUJENGWA (NUMBER OF ALL PRISONS IN TANZANIA MAINLAND AND THE YEAR BUILT)

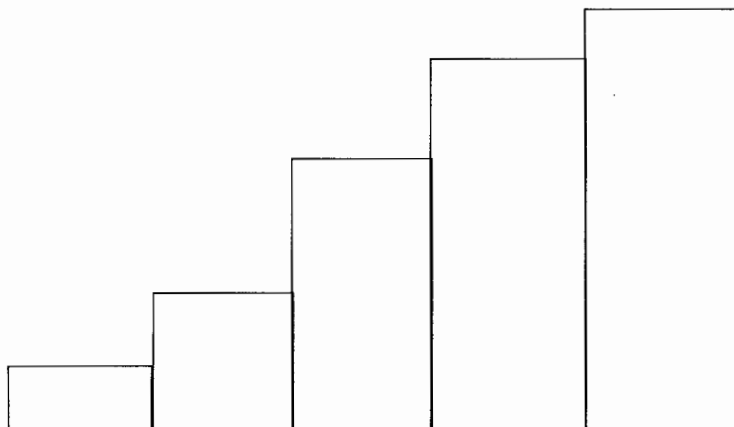
(REGION) MKOA	(PRISON) GEREZA	PRISON CATEGORY AINA YA GEREZA	(YEAR BUILT) MWAKA WA KUJENGWA	(CAPACITY) UWEZO WAKE
DAR ES SALAAM	Ukonga Keko Wazo Hill	Central Prison -do- Open Prison	- 1957 1976	- 340 100
MOROGORO	M/Simba M/Mara W/Kuu W/Vijana G/Wanawake Mbigiri Idete Kilosa Mahenge Morogoro Kihonda Kiberege	Open Prison District Prison Open Prison Central Prison	- - 1964 1964 - 1967 1973 - 1983 - 1977 -	630 192 715 251 90 250 698 86 45 42 150 500
SHINYANGA	Shinyanga Maswa Kahama Bariadi Malya	District Prison	- - - 1974 1959	- 49 33 34 403
MWANZA	Butimba Geita Ukerewe Ngudu Butundwe Kasungamile	Central Prison District Prison Open prison	1951 1944 1962 1929 1976 1979	850 147 48 27 120 60

KIGOMA	Bangwe Ilagala Kasulu Kibondo Kwitanga	District Prison	1914 1968 1936 1975 1981	66 450 105 200 250
PWANI	Bagamoyo Utete Kibiti Mafia Ubena	Open Prison District Prison Open Prison District Prison Open Prison	1969 - 1968 - 1964	217 22 150 22 273
DODOMA	Kongwa Kondoa Kin ang a Isanga	District Prison - Open Prison Central Prison	- - 1974	116 69 250 688
LINDI	K Ngundwa N Ngwea Kilwa Mahabusu Lindi Liwale	Open Prison District Prison - - Central Prison District Prison	1969 1972 1964 - 1976 -	- - - - - -
IRINGA	Iringa Isupilo Njombe Pawaga Kudewa	District Prison Open Prison District Prison Open Prison District Prison	- 1971 1966 1975 1977	96 181 253 96 100
MARA	Musoma K Kari Mugumu Tarime M/Mugumu Bunda	District Prison Open Prison - District Prison - -	1938 1971 1975 1942 - -	195 482 331 148 150 100
KAGERA	Kitengule Bukoba B Mulo Rwamurumba Ngara Kayanga Muleba	Open Prison District Prison - - 1970 - 1977 1978	1964 - - - - 1977 1978	297 304 47 230 47 100 100
MBEYA	Rwanda — Mbeya Songwe Tukuyu Ngwala Ileje	Central Prison Open Prison District Prison Open Prison District Prison	1950 1967 1979 1979 1979	320 376 105 100 50

TABORA	Uyui	Open Prison	-	588
	M/Tabora	District Prison	-	81
	Urambo	Open Prison	-	-
	M/Urambo	District Prison	-	-
	Nzega		-	53
RUKWA	Mollo	Open Prison	1967	200
	K/Su nga	District Prison	1929	137
	Kalila	Open Prison	1957	198
	Mpanda	District Prison	1957	115
RUVUMA	Kitai	Open Prison	1970	384
	Mkwaya — Mbinga	District Prison	1975	133
	M/Songea		1961	76
	Tunduru		1961	52
MTWARA	Masasi	District Prison	1940	75
	Lilungu	Central Prison	1952	748
	Newala	District Prison	1975	131
	Chumvi	Open Prison		50
TANGA	Maweni	Central Prison	1943	869
	Korogwe	Open Prison	1955	56
	M/Tanga	District Prison	-	84
	Pangani		-	91
	Lushoto		-	36
	Kwangumi		1972	300
	Handeni		-	320
	Mng aro	Open Prison	-	-
SINGIDA	Manyoni	District Prison	1959	115
	Singida		-	117
	Kiomboi		1959	50
	Ushora		1976	156
ARUSHA	Arusha	District Prison	1963	195
	Mbulu		1935	53
	Babati		1973	50
	Loliondo		1922	20
KILIMANJARO	Karanga	Central Prison	1949	840
	Same	District Prison	1952	100
	Mwanga			50

GROWTH OF PRISON POPULATION AND RATION EXPENDITURE 1981 — 1985

2:3:14 INMATES RELEASED ON PRESIDENTIAL PARDON



The problem of congestion in prisons has sometimes been relieved temporarily by releasing convicted prisoners on Presidential Pardon as shown in Table L herein below:

TABLE L:

**WAFUNGWA WALIOFAIDIKA NA MSAMAHA
WA RAIS —TAREHE 7/ 7/ 1991**

1. Waliostahili kuachiliwa baada ya kutimiza masharti ya Msamaha ni wafungwa 13,750
2. Wenye kifungo kisichozidi miaka mitatu (3) wanaopaswa kukaa gereza miezi 3 (mitatu) na ambao wataachiliwa hatua kwa hatua hadi tarehe 6 / 10 / 91 ni 4,130
3. Wenye kifungo zaidi ya miaka mitatu (3) lakini sio zaidi ya miaka 10 ambao wamepunguziwa 1/3 ya kifungo chao zaidi ya msamaha wa kawaida ni 4,681
4. Wenye kifungo zaidi ya miaka 10 ambao wamepunguziwa 1/6 ya kifungo chao hivyo kuwafanya wapunguziwe 3 ya kifungo chao badala ya 1/3 kama ilivyo kawaida ni 547

Idadi kamili ya Wafungwa wote walionufaika na Msamaha
huu ni 23,108

GOVERNMENT NOTICE NO.Published on

THE PRISONS ACT, 1967

NO. 34 OF 1967

.

O R D E R

Made under section 50

.

THE PRISONS (GRANT OF REMISSION) ORDER, 1991

WHEREAS by section 50 of the Prisons Act, 1967, the president of the United Republic is empowered on the recommendation of the Principal Commissioner of Prisons, to grant remission to certain categories of prisoners:

AND WHEREAS the Principal Commissioner of Prisons has recommended to the President that remission be granted to certain categories of prisoners:

NOW THEREFORE, I, ALI HASSAN MWINYI, do hereby, in exercise of the powers conferred by section 50 of the Prisons Act, 1967, order as follows:

1. This Order may be cited as the Prisons (grant of Remission) Order, 1991, and shall be deemed to have come into operation on the seventh day of July, 1991, in this Order referred to as the effective date .
2. Subject to paragraph 3 of this Order :-
 - a) The remainder of the sentence of any prisoner, serving a term of imprisonment that does not exceed three years, and who has immediately before the effective date, already served three months or more of his term of imprisonment;
 - b) The remainder of the sentence of any prisoner who has been, by the effective date, sentenced to serve a term of imprisonment that does not exceed three years, and who shall first serve three months of his term of imprisonment;
 - c) One third of the sentence of any prisoner who has been, on or before the effective date, sentenced to serve a term of imprisonment exceeding three years but not exceeding ten years;
 - d) One sixth of the sentence of any prisoner who has, on or before the effective date, been serving a term of imprisonment exceeding ten years;
 - e) The remainder of the sentence of any woman Prisoners who is pregnant or breast feeding immediately before the effective date;

- f) Any prisoner who by the effective date is sixty years old or more;
 - g) Any prisoner who has been certified by the appropriate Regional or District Medical Officer as suffering from terminal or contagious disease;
 - h) Any Prisoner who is blind, crippled or incapable of working due to his physical incapacity is hereby remitted.
3. (1) Subject to sub-paragraph (2), the remission granted under this order shall not apply to any prisoner who was: —
- (a) convicted and sentenced for robbery;
 - (b) convicted and sentenced under the Economic and Organized Crime Control Act, 1984 and the Economic Sabotage (Special Provisions) Act, 1983;
 - (c) Convicted and sentenced for being in possession of or using dangerous drugs;
 - (d) Convicted and sentenced for cattle theft;
 - (e) Convicted and sentenced for sexual offences;
 - (f) Convicted and sentenced to life imprisonment;
 - (g) Convicted and sentenced to death.
- (2) The provisions of paragraph 3(1) (a), (b), (c), (d) and (e) shall not apply to prisoners specified in paragraph 2(e), (f), (g) and (h) of this Order.

The State House
Dar es Salaam,
5 / 8 / 1991.

Sgd.
ALI HASSAN MWINYI
President

The Police Crime Data has also been collected and shown in Table M herein below:

TABLE M: CRIME STATISTICS

*Statistical Abstracts for crimes reported for the years 1960 — 1965, 1970 — 1975, 1980 — 1985 and 1987 (May).

CRIME STATISTICS — 1960 — 1965

<u>YEAR</u>		<u>REPORTED</u>		<u>SOLVED</u>
1960	-		-	
1961	-		-	
1962	-	85,127	-	29,677
1963	-	75,581	-	22,962
1964	-	90,276	-	28,624
1965	-	102,604	-	24,300

VARIOUS CATEGORIES OF CRIMES

Against Lawful Authority (Total)

1960	-		-	
1961	-		-	
1962	-	1,251	-	565
1963	-	1,173	-	389
1964	-	1,897	-	578
1965	-	1,586	-	475

Against the Person

1960	-		-	
1961	-		-	
1962	-	18,373	-	9,570
1963	-	17,547	-	1,060
1964	-	23,210	-	10,768
1965	-	26,642	-	8,985

Against the Property

1960	-		-	
1961	-		-	
1962	-	65,493	-	19,542
1963	-	56,906	-	14,513
1964	-	64,571	-	17,27
1965	-	74,376	-	14,840
1960	-		-	
1961	-		-	
1962	-	2,481	-	1,216
1963	-	2,172	-	865

1964	-	1,522	-	561
1965	-	1,625	-	412

OTHER OFFENCES

1960	-		-	
1961	-		-	
1962	-	13,027	-	5,865
1963	-	12,116	-	4,989
1964	-	17,479	-	7,953
1965	-	18,647	-	6,347

CRIME STATISTICS — 1970 — 1975

1970	-	114,437	-	17,815
1971	-	103,444	-	16,716
1972	-	100,667	-	15,578
1973	-	87,530	-	13,405
1974	-	102,130	-	13,759
1975	-	114,253	-	12,675

VARIOUS CATEGORIES OF CRIME AGAINST LAWFUL AUTHORITY (TOTAL)

1970	-	1,789	-	552
1971	-	1,724	-	491
1972	-	1,643	-	442
1973	-	1,999	-	541
1974	-	1,974	-	618
1975	-	2,566	-	985

AGAINST THE PERSON

1970	-	37,154	-	8,554
1971	-	34,598	-	8,223
1972	-	31,702	-	7,236
1973	-	31,882	-	6,622
1974	-	30,907	-	6,064
1975	-	31,370	-	5,071

AGAINST PROPERTY

1970	-	73,916	-	8,409
1971	-	65,739	-	7,728
1972	-	66,036	-	7,666
1973	-	45,855	-	4,750
1974	-	66,639	-	6,657
1975	-	74,966	-	6,405

AGAINST PUBLIC MORALITY

1970	-	1,578	-	300
1971	-	1,383	-	274
1972	-	1,286	-	234
1973	-	-	-	-
1974	-	-	-	-
1975	-	469	-	102 others.

OTHER OFFENCES

1970	-	8,660	-	1,510
1971	-	6,175	-	1,254
1972	-	6,624	-	1,492
1973	-	6,309	-	1,265
1974	-	1,143	-	201
1975	-	3,347	-	311

CRIME STATISTICS 1980 — 1985

1980	-	214,180
1981	-	227,350
1982	-	222,113
1983	-	239,531
1984	-	240,898
1985	-	231,648

VARIOUS CATEGORIES OF CRIMES

AGAINST LAWFUL AUTHORITY (TOTAL)

1980) Not Available.
 1985)

AGAINST THE PERSON

1980	-	1,503
1981	-	1,553
1982	-	1,571
1983	-	1,694
1984	-	1,789
1985	-	1,797

AGAINST PROPERTY

ARMED ROBBERY ROBBERTY WITH VIOLENCE

<u>YEAR</u>		<u>REPORTED</u>	<u>YEAR</u>	<u>REPORTED</u>
1980 -	635	1980	-	486
1981 -	524	1981	-	484
1982 -	602	1982	-	438
1983 -	527	1983	-	502
1984 -	613	1984	-	581
1985 -	524	1985	-	661

Cattle theft

1980 -	1,581
1981 -	1,975
1982 -	1,736
1983 -	1,326
1984 -	1,559
1985 -	1,430

Theft of Parastatal Organization

1980	-	989
1981	-	1,214
1982	-	1,811
1983	-	861
1984	-	912
1985	-	880

Theft of Govt. Property

1980 -	545
1981 -	669
1982 -	665
1983 -	567
1984 -	621
1985 -	587

Theft of Motor - Vehicles

1980	-	192
1981	-	223
1982	-	215
1983	-	138
1984	-	181
1985	-	183

Buglary and House Breaking

1980 -	1,521
1981 -	1,969
1982 -	2,865
1983 -	2,767
1984 -	3,512
1985 -	3,700

Against Public Morality

1980	-	44
1981	-	77
1982	-	70
1983	-	60
1984	-	70
1985	-	123

Unnatural Offences

1980	-	10
1981	-	6
1982	-	10
1983	-	13
1984	-	12
1985	-	13

CRIME STATISTICS JAN — JUNE, 1987

1. Against lawful authority (Total) January) Not available
June)

2. Against the Person
Murder

January)
June) 1987 Reported — 720

Against the Property

Armed Robbery
Reported 217

Theft of Motor Vehicles

Reported — 62

Robbery with Violence

Reported — 228

Burglary and House Breaking

Reported — 1,503

Cattle theft

Reported — 1,101

Parastatal Organization

Reported — 210

Against Public Morality

Rape - Reported —

Unnatural Offence

Reported —

Government Property

Reported - 210

2:4 ANALYSIS OF THE DATA

Since it has taken over 5 years for our working Group to prepare this report it is pertinent to start with the question of whether the problem of congestion in prison as it existed in mid 1986 when this working group was formed is still relevant today. From the data shown in table A, B, C, D and E the answer is simply yes. The inmates on July 1986 in all prisons in the country totaled 41,098 prisoners against the prison's capacity to accommodate only 19,737 inmates. By 1st July, 1991 the inmates total population in the country had grown to 46,266 prisoners against the prison's capacity to accommodate only 21,188 inmates.

2:4:1 Problem of Congestion in Prison Since Independence in 1961

From the data in table GAA, BB & HH and tables A — E it is apparent that prior to and after independence of Tanganyika (Tanzania Mainland) which was gained on 9th December, 1961 there was no problem of congestion in prison because whereas the coverage capacity of prison between 1960 and 1965 was 12,499 inmates the actual average population in prison for the same period was only 11,436 inmates. The problem grew worse than before during the period of 1980 — 1985 when the inmates population averaged 36,233 as against the prison capacity for 19,433 inmates only.

2:4:2 Crimes Reported

The Police statistics in Table M show that the population of prisons which we regard as a serious problem is just an iceberg in the sea of criminality in the country. In 1965 for example crimes reported to the police amounted to 102,604. The average rate of inmates as a result of arrest and convictions arising out of the same crime wave was only 11,436. By 1985 the crimes reported to the police had increased to 231,648 per annum whereas the inmates population had increased to an average of 36,233 by 1985.

Normally, crimes reported to the Police are only a fraction of the actual crimes committed within the country for many victims of crime, do not report at all to the police or to anybody. Also there are many other crimes committed which do not cause injury to any individual person or which go undetected etc.

2:4:3 Government Expenditure on Inmates

By keeping criminal suspects or convicts in prison it costs the government substantial amount of its budget. Table K shows by a graph diagram the increase in ration expenditure on inmates for the period of 1981 — 1985. The cost of ration for prisoners has arisen from 20.5 million in 1981 to over 311.7 million in 1985. Now it is many times higher than that.

2:4:4 Government Expansion on Prison Capacity

From Table A — F and Table GAA (a) and (b) it can be seen as follows: between 1965 and 1975 there was a great expansion of prison capacity from a capacity of 12,499 inmates in 1965 to a capacity of 18,339 inmates in 1975.

Thereafter, construction of prisons was hardly done for prison capacity to accommodate inmates increased from 18,339 inmates in 1975 to only 21,188 inmates by 1st July, 1991, whereas we have shown above that prison population of inmates increased from an average of 11,436 inmates in 1965 to 23,505 inmates in 1975 and up to 46,266 inmates by 1st July, 1991 (see Table F).

2:4:5 National Population Growth

Table G — JJ and KK show that national population growth and its percentage. Between the period of 1961 and 1991 the population of Tanzania has grown from 10,567,000 in 1961 to

over 25,000,000 in 1991.

2:4:6 Presidential Pardon

One of the quickest ways of alleviating the problems of congestion in prison has been to release prisoners serving imprisonment terms of presidential pardon. This is shown in Tables G. DD, L and L.AA. There were 35,612 prisoners released in this manner between 1960 and 1987. on 7th July, 1991 as shown in Table L 13, 13,750 prisoners were released for the prison and other 4,130 prisoners were released for the same reason of Presidential Pardon on 6th October, 1991 with a total of 17,880 prisoners out of 46,266 inmates. The total number of prisoners who will benefit from this clemency who add up to 23,108.

The Director of public Prosecutions (DPP) for under reasons of public interest has served well in alleviating the problem of congestion of remandees through withdrawal of charges facing accused persons. For example: on 30th June 1991 the DPP directed the release of 159 remandees facing charges of manslaughter, attempted murder and infanticide after withdrawing charges which were pending in court for periods between 3 years to 10 years.

This exercise of withdrawing charges through nolle prosequi resulting into release of remandees from prison for reasons of public interest thereby reducing the problem of congestion of inmates and overdue delayed cases has previously been done by the DPP in 1983 and again 1989/90 in respect of Sungusungu (traditional militia) remandees in Mara, Mwanza, Shinyanga and Tabora regions (see Table N).

There are many schools of thought in support or against release of convicted prisoners on presidential pardon or of remandees on nolle prosequi of the DPP. But, without going into argument of the merits and demerits of such release of inmates it serves the same good and lawful purpose of alleviating the problem of congestion in prison at any particular time when such exercise is executed.

2:4:7 Extra-Mural Penal Employment

The data collected by the Working Group, shows in Table G. GG that between 1972 and 1975 there were 9,924 convicted prisoners who were released from prison on extra-Mural Penal employment. This exercise contributed a lot towards reducing the problem of congestion in prison.

As a result of decentralization of Government in 1972 and abolition of local government authorities which were the main users of the extra-mural penal employment prisoners released from prison for serving the remaining punishment on extra-mural employment dwindled fast to a complete halt. The exercise of extra mural employment after re-introduction of local government authorities in 1982 has hardly been able to pick up sufficiently to have an impact in reducing the problem of Congestion in Prison.

2:4:8 Other Data

The short analysis of the data given here in above is not exhaustive. It is open for any different interpretation depending on the use upon which the data is put. There is also a mass of other data collected by the Working Group in the course of its work which has not been incorporated into this report but is open for use by any interested party. It is contained in the respective correspondence files of the Secretariat to the Working Group and of each member of the Working Group.

TABLE N

**MASHAURI YALIYOFUTWA MAHAKAMANI TAREHE 30 JUNI, 1991 KWA
MAAGIZO YA MKURUGENZI WA MASHTAKA (DPP)**

S/No.	JINA LA MAHABUSU	NAMBA YA KESI	MAELEZO
1.	MKOA WA RUKWA		
1.	Madwelo Watson	H. C. . Cr Sess. 5/88	Tatizo la kupatikana mashahidi
2.	MKOA WA MTWARA		
2.	Bakari Mussa	D/C. Cr Sess. 49/90	
3.	Daudi Wandala	P/1/No. 11/88	Hukumu imeshatolewa na Mahakama Kuu Mtwara
	Nolle Prosequi.		
3.	MKOA WA DODOMA		
4.	Daniel	H. C. CR. Sess. No	Tatizo la ushahidi Hukumu imeshatolewa na Mahakama
	Kuu DODOMA		
5.	Matonya Mahindo	H. C. CR Sess. No. 25/90	Attempted Murder
6.	Elias Mkunjile	H. C. CR Sess. NO. 11/90	Attempted Murder
	Samson Chiningu		
7.	Chiban Stephen	Cr. Sess. 21/87-8. 10.87	Nolle Prosequi.
8.	Ramadhan Opendo	DR/CD/SCR/25/86	Discharged on 4/3/91 by HEC Session at Kondoa
9.	Richard Magagasi	D/C/Dodoma CC 198/88	Amefungwa jela tarehe 2/5/1991
10.	Gurengisa Mbuu	D/C/Kondoa CC. 18/88	Wameachiwa huru tarehe 8/5/1991
	- Hussein Hassan		
	- Lelo Greey		Nolle Prosequi
	- Juma Athuman		Nolle Prosequi
11.	Abbasi Ally	DR/CID/SCR/Y/394/82	Nolle Prosequi
12.	Ramadhani Kidranga	D/C/Kondoa C.C. 2184	
13.	Grant Valentine	H/C. 85	Nolle Prosequi
14.	Kaaya Degere		5/3/1991
	- Jumanne Chori	D/C/Kondoa CC. 1/85	
	- Jumanne Hassani		Nolle Prosequi 5/3/1991
	- Ramadhani Leba		Nolle Prosequi 5/3/1991
15.	Iddi Hamisi	D/C/Kondoa 15/86	Amehukumiwa kunyongwa
16.	Papa Sambasha	D/CKondoa CC 25/87	— 20/3/91
17.	Ally Bakari	D/C Kondoa CC 29/86	Wamehukumiwa 5/3/1991
18.	Waum Walidi	D/C Kondoa CC 21/86	Amehukumiwa 8/3/91
	Hamisi Gregory		Amehukumiwa 8/4/91
19.	Hassani Ramadhani	D/C Kondoa	Amehukumiwa 8/4/91
20.	Ismail Mohamed	D/C Kondoa CC. 17/86	Nolle Prosequi 24/4/91

21.	Ally Ismail	D/C Kondoa CC. Sess.17/87	Amehukumiwa 14/3/91
22.	Mkotya Motoli	D/C CR. Sess. 1/90	Amehukumiwa 8/4/90
23.	Kisansa Bonno	D/C Dodoma CC. 4/86	Nolle Prosequi 6/2/91
24.	Iddi Shabani	D/C Cr. Sess	
25.	Chilunga Jongwa	D/C Cr. Sess	Discharged 7/2/91
	Chale Lemto		Amehukumiwa 17/1/91
26.	Amos Mbalega	D/C/Dodoma CC. 80/87	
27.	Manase Mashauri	D/C Dodoma CC. 271/87	Tatizo la mashahidi kupertikana
4.	MKOA WA SINGIDA		
28.	Bilauzo s/o Buhendo	NC. Cr Sess. Case No. 24 of 1990	Tatizo la mashahidi Manslaughter — self defence
29.	Mwendo Naemia	NC. Cr. Sess. Case No. 21 of 1990	Tatizo la mashahidi
30.	Jumanne Iddi	NC. Cr. Sess. Case No?	Tatizo la mashahidi
31.	Mustafa Saba	NC. Cr. Sess. No. 28 of 1989	Tatizo la mashahidi
32.	Hadija Hanga	NC Cr. Sess. Case No.	Tatizo la mashahidi
	John Mgana		Tatizo la mashahidi
33.	Alloys Mwaja Nchandi	NC Cr. Sess Case No. 17/89 NC Cr. Sess Case No. 338/87	
34.	Robert Gunda		Mauaji bila kukusudia
	Mtakona Selemani		- Mtuhumiwa alikuwa akijitetea (Element of self Defence)
35.		HC. Cr. Sess	Manslaughter — kogo kwa bahati mbaya — bila kutegemewa
36.	Eliukondo Samson	HC. Cr. Sess Case No	Nolle Prosequi Mauji yalifanywa na watu wengi zaidi — (mob justice) si vema kuwashtaki wawili tu
37.	Charles Mathias	HC. Cr. Sess Case No	Kifo kilisababishwa na kundi la watu.
38.	David Masenepya		
	Emmanuel Sekundo	HC. Cr. Sess Case No	
39.	Kipini Ngudu		
	Mwantandu Gwau		
	Charles Ghumbi		

5. 40.	MKOA WA MARA Odira Akuti	D/C TARIME CC 158/87 HC/Cr. Sess 133/88	Tatizo la mashahidi
41.	Julius Maregesi - Christopher Msubi - Chacha Mwita Chacha	D/MUSOMA CC. 158/87 HC. Cr. Sess 133/88	Tatizo la mashahidi
42.	Kehengu Kirunguro - Benard Chacha - Msiba Wandeti - Magesa Kingaro - Charles Kasumba	D/C MUSOMA CC. 306/86 HC.Cr. Sess 133/88	Tatizo la mashahidi
43.	Pius Oyego	CC. 92/85 TAR/IR/ST OP/7185	Shitaka liliondolewa mahakamani
6. 44.	MKOA WA ARUSHA Sumay Sashan	1. Cr Cass 125/84	Kesi hii ilikwishasikilizwa na Mahakama kuu Crim Sess 24/87. Mshitakiwa alipatikana na hatia na kuhukumiwa kunyongwa tarehe 27/3/91
45.	Maleje Lemadal Lemadal	2. DC KITETO Cr. Case 77/87/KIB/IR/342/87	Nolle Prosequi entered — 4/5/91
46.	Godson Nathael - Humphrey Alexander - Ernest Nael - Felix Ataulo - John Michael	3. DK ARUSHA Cr.Case 120/88ten/ir/892/88	Mauji (Mob Justice) tarehe 7/10/88 saa 13.30 mchana katika kijiji cha Achen, Nojun Lazaro aliuawa na kikundi cha watu kwa kupigwa na fimbo kwa tuhuma za kudhulumiana mali. Nolle Prosequi should be entered.
7. 47.	MKOA WA KILIMANJARO Petro Babu	1. MOS — PI NO 31/81 MOS/IR/4811/81	Mahabusu huyu alikuwa anaugua ugonjwa wa akili. Shauri lake lilisikilizwa 27/2/87 kwa mujibu wa kifungu 219 CPA aliamuriwa kubaki gereza la vichaa.

48.	Abbas Ally	2. MOS/CC NO. 62/84	Nodle Prosequi — was entered on 4/5/91
49.	Hilda Abel	3. Cr. Sess No. 12/88	Shauri hili liliisha baada ya mahabusu kuhukumiwa kunyongwa tarehe 10/4/1991
50.	Living Nicolaus	4. CC 34/87 MOS/IR/1585/87	Nodle Prosequi iliondolewa tarehe 4/5/1991
51.	Aopald Joseph - Felix Rafail - Ally Issa Kileo	CC. NO. 10/87 HI/IR/1561/86	Nodle Prosequi
52.	Moses Josephat	Cr. Sess 65/88	Kwa mujibu wa kifungu 219(a) mahakama apelekwe tarehe 4/4/90
53.	Nicolaus - Malimito - Martini	MOS/IR/2500/87 KR/CID/SCR/69/87	Watuhumiwa hao shauri lao limekwisha tarehe 15/3/1991 wote wamehukumiwa kunyongwa. Watuhumiwa wote walichukuliwa katika kikao cha Mahakama Kuu baada ya Nodle Prosequi kutolewa
54.	Comel Mzee -Julius Mwisanga - Paulo David - Juma Hussein - Joseph	HC/CR/Sess case 28/29	Acquitted — 12/4/1991
55.	Arobagast Leonard	HC Sess 11/88	
8	MKOA WA TANGA		
56.	Waziri s/o Mwadibwa Ramadhani Rashidi	1. DC Tanga CC No. 120.88	Nodle Prosequi 15/5/1991
57.	Hassan s/o Zigo Kisasi	2. D/C Tanga CC. No 497/87 TAN/IR/3462/87	Mnamo 7/12/87 Mshitakiwa alimpiga mwanee Mo. Hassan Zibe ambaye alifariki Hospital tarehe 10/12/87. Mshitakiwa alimpiga makofi mawili usoni baada ya marehemu kukataa kwenda shule. Hakuna ushahidi wa Daktari kuonyesha cause of death . The charges should be dropped.

58.	Almondo Brash	3. D/C PANGANI HC CR. Sess. Case 8/91	Shitaka hili limeondolewa Mahakamani 8/5/91 na mshitakiwa kuachiwa huru.
59.	Abibu Hussein	4. D/C/KOROGWE CC 101/87 KOR/IR/758/87	Shitaka hili liliondolewa Mahakamani kwa Nodle Prosequi na mshitakiwa aliachiwa huru — 27/2/1991
9 60.	MKOA WA MBEYA Andalwisye	1. D/C/ILEJE CR C. 20/88 MB/IR/159/83	Convicted Criminal Lunatic — 16/5/1991
61.	Andrew s/o Gabriel	2. D/C ILEJE CC. 6/87 CR Case No. 70/88	Criminal Lunatic 2/4/1990
62.	Ngao Mjobege Chrisopher Sengo	3. D/C/MBEYA CC. No. 1/88 CHU/IR/691	Marehemu SITA LUHENDE LUSHANGU aliuawa 21/10/87 alipigwa na watu. Hakuna ushahidi wa kutosha na Information for murder ilikuwa filed 11/5/1991 - shitaka liliondolewa (Nolle Prosequi should be entered)
10. 63.	MKOA WA IRINGA Gerevas Zakaria	1. D/C/LUDEWA CC 5/86	Mauaji - Rotalia Ngatwende alipigwa na mumewe (Mshitakiwa) tarehe 25/4/86 kwa mateke na kufariki 25/4/86 walimbania kirago. Hakuna ushahidi wa cause of death kesi ifutwe.
64.	Philipo K. Mzena	2. D/C LUDEWA CC 8/8/87 MLA/IR/78/87	Mauaji Marehemu Catherine Ngai alifariki 27/5/87 baada ya kunywa ulanzi wenye sumu tarehe 26/5/87. Mshitakiwa ni mtalaka wake - Hakuna ushahidi wa kumuunganisha na alleged poisoning . - Shitaka liondolewe.

65.	Charles s/o Mrope Barnaba Haule Ali Abdallah	3. D/C LUDEWA CR. Sess 105/90	Mauaji- Marehemu aliuawa kwenye ugomvi baada ya ulevi Main witness could not be traced .- Kesi ifutwe.
66.	Simon s/o Kanyaswa	4. D.C IRINGA CR Sess No. 20/89	Mauaji (Manslaughter) - Marehemu alifariki kwa kunaswa na umeme (accident) Nolle Prosequi should be entered
67.	Mariam Ngope Victoria Mbwilo Daudi Ngoke	5. D/C NJOMBE CR C.NO 178/90 NJ/IR/369/90	Mauaji (Manslaughter) on mob justice
68.	Daudi Mganga	6. D/C IRINGA CC 41/88 CR SESS 110/90	- Manslaughter — Deceased died after filling of our moving vehicle. - Nolle Prosequi to be entered
69.	Julius s/o Saciambili	7. D/C IRINGA CR SESS 77/88	- Deceased died after being hit with a stick on the head during a drunk squabble
70.	Astea s/o K. Lukuwi	8. D/C IRINGA CC 34/88 CR SESS 160/90	- Deceased died after being hit on the stomach during drunk squabble - Enter Nolle Prosequi
11.	MKOA TABORA		
71.	C367 PC SILVANUS	CC SESS CASES NO. 87/90	- Attempted murder
72.	Petro Luswaga	CC SESS CASE NO	Manslaughter(Self Defence)
73.	CR. Hamisi Tenes Issa Ramadhani Selemani Yasin Seleman Juma Hasan	CR. SESS. CASE NO	Manslaughter (Self Defence)
74.	Mnyanda Shija Ikuli	CR. SESS. CASE NO. 326/86	Manslaughter (Self Defence)

12. 75.	MKOA WA KIGOMA Masimango Daudi	CR. SESS. CASE NO. 326/86	Manslaughter (Self Defence)
76.	Tatu Kimzanye	CR. CASES. 151/87	Attempted Munder
77.	Lucas Majengo	CR. SESS. 81/90	Judgment was made — 22/2/1991
78.	Lazaro Madebe	CR. SES. 125/87	Judgment was made — 23/2/1991
13. 79.	MKOA WA SHINYANGA Pascal Malangala	CR. CASE 91/89	Mob Justice
80.	Gems Ngusa Mitanda Likunga Masanja Malongo	CR. SESS. 84/89	Mob Justice
14. 81.	MKOA WA MWANZA Gervas William	CR. SESS. 79/90	Judgment was made on 20/2/91
82.	Charles Katemi	D/GEITA CC. 40/88	Problem of witness
83.	Makanika Lufa	D/C GEITA CC. 19/88	Problem of witness
	Saida Mashana		
84.	Juma Lutengamja	D/C GEITA CC. 1/89	Problem of witness
85.	Lweyenga Wanjala	D/C GEITA CC. 21/89	Problem of witness
86.	Sayilwa Kateni D/C	D/C GEITA CC. 26/89	SelfDefence (Manslaughter)
87.	Balya Mahunga	D/C GEITA CC 26/89	Problem of witness
88.	Bwege Justice	D/C GEITA CC 26/89	Attempted Murder
89.	Mahiku Gagweli	D/C GEITA CC 35/89	Attempted Murder
90.	Muelelezi Inocent	D/C/ GEITA CC 42/89	Problem of witness
91.	Esau Sanjo	D/C/ GEITA CC 48/89	Problem of witness
92.	Nkwimba Masikini	CR. SESS. NO. 48/89	Self defence (manslaughter)
15. 93.	MKOA WA KAGERA Pascal Kamgwa	KA GR/CID/SCR/5/88 CC.5/88	Manslaughter(Self Defence)
94.	Honerine Aloyce	KA GR/CID/SCR/222/86 CC.52/86	Manslaughter(Self Defence)
95.	Amidu Ibrahim Ambrose Kasele	KA GR/CID/SCR/516/87 CC.69/87	Manslaughter(Self Defence)
96.	Kahamanyi Makuba	KA GR/CID/SCR/516/87 DL. 85/87	Manslaughter(Self Defence)
97.	Rudovick Rwebukoba Jojina Petro	KA GR/CID/DCR/344/86	Manslaughter(Self Defence)
98.	Amidu Ibrahim	KA GR/CID/SCR/414/87 CC. 69/87	Mob Justice

99.	Christina Petro	KA GR/CID/SCR/512/87	Mob Justice
100.	Nestory Kambena Felician Mkulasi	CR. C. 16/87	Mob Justice
16.	MKOA WA PWANI		
101.	Waziri Salum Mkongogo Yohana Waziri Mkongogo	CR. SESS. 64/89	Manslaughter arising out of fig.
102.	Athuman Shmari	CR. SESS. 68/88	Mob Justice
103.	Mandili Juma	CR. SESS. 50/90	Attempted Murder
104.	Boniface Chenya	CR. SESS. 25/90	Lack of Evidence
105.	Samwaja Omari	PWACID/SCR/155/88	Manslaughter Mistake of fact
17.	MKOA WA DAR ES SALAAM		
106	Frida Ringo Hamis Mohamed	CR.SESS. 78/88	Mob Justice
107	Andrea rock	CR. SESS. 48/86	Manslaughter (Self Defence and property)
108	Hamis Kilatu	CR. SESS. No. 82/88	Manslaughter (Self Defence and property)
109	Jumanne Nassoro Mfaume Sultani Shabani	CR. SESS. No. 12/88	Lack of evidence and problem of witnesses
110.	Venance Malikior	DSMR/CID/SCR/YCC. 1111/84	Lack of evidence and problem of witnesses
111.	Julias Mwanila	CR. SESS. No	Lack of Evidence
112	Rhoda Jackson	CR. SESS. No. 113/88	Child destruction
113.	Ally Athuman	DSMR/CID/SCR/344/84 KIVUKONI 592/84	Mob Justice
114.	Zuberi Mantanda	CR. SESS. No. 15/86	Mob Justice
115.	Michael Michael	KIVUKONI CR. CASE No.208/88	Lack of evidence
18.	MKOA WA ARUSHA		
116	Giloguma Gigachinja	CR. SESS. CASE No. 71/86	Manslaughter (Self Defence)
117.	Mota Gwandu	CR. SESS. No. 68/85	Manslaughter Quarrel
118.	Dalagu Gidabu Ngole	HC. CR. SESS. 47/89	Manslaughter Quarrel
119.	Gidang adi Sodoweya	CR. SESS. No. 66/89	Manslaughter Quarrel
120.	Festo Joseph	CR. SESS. No. 20/89	Innocent
121	Gadiye Amnaay	CR. SESS. C. No. 25/90	Manslaughter — Fight
122.	Emmanuel August	CR. SESS. CASE No. 31/89	To enter Nolle
123.	Amsi Ngaida	CR. SESS. CASE No. 31/89	Manslaughter Fight(Self Defence)

124.	Godson Nathanael	CR. SESS. CASE No. 120/88 D/C ARUSHA	Manslaughter — Fight
125.	Mohamed Abdallah	CR. SESS. CASE No. 55/90	Manslaughter Adultery
126.	Elias Batholomew	CR. 9 No. 75/89	Manslaughter (Self Defence)
127.	Geje Tlatla	MBULUDC 36/87	Manslaughter — Fight
128.	Nathanael Andrea Matei Amedons Kisaka	CR.9 No. 72/90 PI/28/88	Manslaughter — Fight Manslaughter — Fight
19	MKOA WA TANGA		
130	Ezekiel Isack S/o Luhanyamo Bryson Luhamanyo Luhamanyo Luhamanyo	CR. SESS.No. 16/89	Manslaughter arising out of a fight
131	Mahija Bakari	CR. SESS. No. 29/88	Manslaughter — Fight
132	Amaldo Brashi	CR. SESS. CASE No. 9/91	Manslaughter - Fight Nolle Prosequi
20.	MKOA WA MBEYA		
133.	Andalwisye Kitembo	CR. SESS.CASE No. 20/89	Manslaughter — arising out of a fight
134.	Daudi Mwashitete	CR. SESS. CASE No. 43/89	Manslaughter (Self Defence)
135.	Exavery Mtandiji	CR. SESS. No. 18/88	Problem of witnesses
136.	Jaston Mlolo	CR. SESS. No. 6/89	Manslaughter — Fight
137.	Richard Tupa & Sichara	CR. SESS.No. 72/88	Manslaughter
138.	Bahati Mwibambalage	CR. SESS. No. 30/89	Manslaughter — arising out of a fight
139.	Gervas Zakari	LUDEWA CR. 5/86	Manslaughter — Intoxication
140.	Charles Mrope Bamabas Haule Ali Abdallah	LUDEWA CR. SESS.	Manslaughter - Intoxication
141.	Gerald F. Sanga	LUDEWA DC 28/87	Manslaughter — Fight
142.	Simon Kanyagwa	CR. SESS. 20/89	Death accident/negligence
143.	Domnicus Kabwa & Christopher Kisuka	IRINGA DC CC 33/88	Manslaughter — Out of a fight
144.	Anthony Ngimbuzi	CR.SESS. No. 108/88	Manslaughter out of a fight
145.	Julius Sasiambili	CR. SESS. No. 77/88	Manslaughter out of a fight
146.	Astrea Lukuwi	CR. SESS. No. 160/90	Manslaughter — Quarrel
147.	Athuman Mandai	CR. SESS. No. 20/85	Mob Justice
148.	Daniel	DODOMA CR. SESS. 4/85 1233/88	Manslaughter — fight — Weak evidence
149.	Matonya Mahindo	CR. SESS. No. 25/90	Quarrel in a bar
150.	Lebwaga Maswaga	CR. SESS. No. 64/89	Fight in a Pombe bar

151.	Gideon Logongain	DC.CC. 11/87	Manslaughter — after a quarrel
152.	Chimua Suma	CR. SESS. No. 34/91	Manslaughter — arising out of a quarrel
153.	Malongo Mkatalo	DODOMA CR. C. 11/88	Manslaughter — arising out of a quarrel
154.	Mtumila Mesanyi	DODOMA CC. 9/84	Accused of unsound mind

2.5. Other Confinement Facilities

We have to clarify that there are other confinement/detention/remand facilities which we have not covered in our work. These include police remands, court martial remands, primary court remands etc. which might be having the same problem of Congestion as in the Prisons.

We have not dealt with these other confinement facilities because they were not covered in our Working Group's terms of reference. Better opportunity might be found elsewhere to examine if there is any problem of Congestion in them.

2.5.2 Civil Prisoners

Prisons cater for civil prisoners too. But during our research we hardly encountered a single civil prisoner. From the Prisoners records too, there appears to have hardly ever been a civil prisoner incarcerated in the prisons. Civil imprisonment therefore, is not a problem in this country although the law provides for it.

2.5.3 Remand Homes and Approved Schools

- (a) Under the Juvenile and Young Persons Ordinance Criminal offenders who are under the age of 12 years (juveniles) and 16 years (young persons) are required to be kept in remand homes if upon being charged with criminal offences they fail to secure bail. At the end of their trial if they are convicted and sentenced to serve any imprisonment term they are required to be kept in approved schools where they can stay until they reach the maximum age of 18 years.
- (b) At this stage a hint may be made upon persons above 16 years of age but under 18 years who are convicted of capital offences like murder or treason punishable by death. They cannot under the Penal Code (Cap. 16) be sentenced to death. Instead, they are required to be kept in prison at the President's pleasure i.e. until the President releases them from prison under his constitutional powers of prerogative of mercy. Since they are kept in normal prisons we have already covered their problem when dealing with the general problems of Congestion in prisons.
- (c) As for juvenile and young persons with less than 16 years our Working Group has covered them although outside the terms of reference because where there are no remand homes facilities available they are kept in custody in ordinary prisons. Since there are only 5 (five) remand homes in the whole country juvenile and young persons remandees in the rest of 15 regions and districts within the five regions which are far from the remand

homes i.e. Handeni, Korogwe, Lushoto districts in Tanga region etc. are kept in the nearest prisons.

- (d) The Working Group found out that the problem of Congestion in 5 remand homes exists only in the Dar es Salaam remand home and Moshi remand home. In the rest of the 15 regions where there are no remand homes, the problem of congestion in prisons affects the children and juvenile just like the adult prisoners in view of the fact that the requirement for children and juvenile to be kept separately from adult remandees and prisoners is hardly implemented whenever there is congestion in prison.
- (e) The Probation Office which is responsible for keeping custody of children and juvenile offenders is currently a mere relegated Section within the Social Welfare Department of the Ministry of Labour, Youth and Social Welfare. But, its probation services are required in every High Court, region, district and even at the level of division and ward where there is a court with criminal jurisdiction, moreover, the probation office, besides dealing with probation matters in court, remand homes and approved schools is responsible for after care of ex-prisoners, ex-probationers, ex-approved-schoolers, juvenile delinquents, street-children and rehabilitation of habitual offenders. The probation office is also responsible for the resettlement of habitual offenders which is now being undertaken by the Prisons Department as a result of incapacity by the probation Office to deal with it. The Probation Office also faces problems of under staffing or misallocation of trained staff to other functions within the Ministry, inadequate financial support and working tools. The probation Department in our view, can function better if placed as a fullyflegged/independent department in a more relevant Ministry like the Ministry of Justice (currently the Prime Minister s Office) than the Ministry of Labour, Youth and Social Welfare.

PART III:

3. THE REASONS FOR CONGESTION IN PRISONS

- 3.1 The research into the subject revealed the reasons which caused congestion in prison. These reasons are: -

The provisions of the law regulating bail pending trial or appeal are progressively becoming too restrictive and as a result many people who ought to have been out on bail are kept in remand as against the well established legal principle that an accused before a Court of Law entitled to be released on bail pending the determination of his or her case.

Under no circumstances should bail be withheld for the purpose of punishing an accused person. Section 15 of the constitution of Tanzania provides for the Right to Liberty, i.e. no one may be deprived of his or her freedom except in accordance with the law.

- 3.1.1 The law of bail in Tanzania was, however, drastically changed in 1985, and some offences were declared not bailable, while in respect of other offences a cumbersome process has to be followed (see example, section 148 of Criminal Procedure Act., 1985 and section 35 of the Economic and Organized Crime Control Act, 1984). Following this development it has become obvious that the provisions of the law regulating bail pending trial in respect of certain offences have become too restrictive and as a result many people who ought to have been out on bail are remanded in custody.
- 2.2.2 This departure from the pre-1985 position defeats the object of bail and the principles behind this object. The main object of bail is to ensure that the accused person will attend his or her trial without him or her being detained in prison or remand. Prior to 1985, almost all offences were bailable, including murder and treason whose bail could be sought in the High Court. This seems to be the position in most Anglo —American jurisdictions.
- 2.3 The Working Group noted that Congestion in prisons is also partly caused by delays in hearing of appeals especially at the High Court level for Criminal appeals from the District and Resident Magistrate s Courts. A large number of prisoners who would otherwise be released from the prisons on acquittal from their conviction, unnecessarily remain in prison for a long time or until they finish serving their sentence before their appeals are heard. In addition, the Prison Administration cannot transfer such convicted appellants to less congested prison until their appeals are heard, thus aggravating the problem.
- 3.1.1 This problem is partly caused by delays in delivery of copies of judgements to the prisoners who cannot appeal until their memorandum of appeal is accompanied by a certified copy of judgement.
- 3.1.2 At that time of hearing the appeal, where the convicted appellant has failed to attend for various reasons and if he had indicated a wish to be present, the High Court cannot proceed with the appeal and is bound to adjourn the appeal so long as the appellant does not appear. The High Court is far too removed from where the appeals originate for it has been

decentralized only up to the zonal level, for example appeals from the District Court of Mbinga or Mpanda have to be filed in the High Court at Mtwara or Mbeya respectively a distance of about 600 kilometres away. The Service of notices or summons to parties and costs of attending to the appeal are too restrictive to ensure quick dispensation of the appeals concerned.

- 3 Delay in the determination of cases has sometimes been caused by financial constraints faced by the Judiciary, Police and other investigative organs or office of the Director of Public Prosecutions. One of the best examples occurred in March, 1990, when all the High Court sessions in the country were suspended until the following financial year simply because the Justice Department did not have funds for travelling and substance allowances while on sessions outside the Zonal High Court centres. On a number of occasions, for lack of funds to pay witnesses allowances cases have been put off pending availability of funds.
- 3.4 Another reason necessitating delays in the determination of cases is the non-appearance of witnesses when cases are fixed for hearing, thus causing unnecessary adjournments while suspects are kept in remand custody. The penalty for failure to obey a witness summons (fine of shs. 500/=) is so trivial that some potential witnesses for economic or other reasons, do not bother to attend court. Their absence leads to adjournments which in turn cause, as pointed out above, congestion in prisons.
- 3.5 The Minimum Sentences Act, 1972 has had its role in increasing congestion in prisons due to its minimum long custodial sentences and the meagre value of property or amount involved in crimes covered by the Minimum Custodial sentence. There are other statutory provisions elsewhere which prescribe mandatory minimum custodial sentences and thereby leading to a number of offenders, who would otherwise be given non-custodial sentences, being sent to prison.
- 3.6 Delayed investigations have sometimes been caused as a result of lack of expert evidence. Most of the prosecutions of Criminal cases in Tanzania are conducted by the Police Force under the Director of Public Prosecutions. The fundamental requirement in all criminal cases is that prosecution must prove its case beyond all reasonable doubt. Direct evidence (eye-witnesses account), circumstantial evidence sometimes need to be supplemented with expert evidence in different fields like finger prints, handwriting, ballistics forensic medicine, pathological examination, chemists report, assayers analysis, photographic printers etc.

With the exception of the chemist and assayers which fall under the Chief Government Chemist and Government Assayers respectively the Police Force is equipped with experts in the remaining above mentioned fields. However, the Police Force has very few experts and cannot cope adequately with the number of cases investigated and requiring their expertise.

Since those few expertise have to examine specimen submitted to them from all over Tanzania it sometimes takes several months to obtain their reports and in the meantime cases are adjourned pending the availability of the experts reports and accused persons are kept in remand thus contributing to congestion in prisons.

- 3.7 The police are empowered by section 59 of the Criminal Procedure Act, No.9 of 1985 to take fingerprints to people charged with any offence or in order to facilitate the investigation of any crime. All convicts are taken their fingerprints for the records of the Identification Bureau (IB).

It has, however, been noted that in recent years due to lack of records showing previous convictions of suspects, courts have metted out inadequate sentences with the result that such hard core criminals have avoided being taken to maximum security prisons where their escape would be contained and their rehabilitation programmes would have been undertaken more effectively. Although they are hard-core criminals some of them had been punished with fine only or kept in custody in less secure prisons such as in open farm prisons due to the lack of the previous records. Once outside, these ex-convicts have resorted to further crime unabated, thus causing public insecurity outcry which leads to stiffer parliamentary enactments against bail or minimum and long custodial imprisonment.

- 3.8 At present, in cases involving unlawful possession of illicit liquor or cannabis sativa (bhang) the exhibits have to be taken from all over the country to the Government Chemist in Dar es Salaam for analysis and certification. Sometimes even where the accused person has pleaded guilty to the charge magistrates have insisted on being furnished with certificates from Government Chemist to prove that the exhibits are what they are alleged to be. Meantime, accused persons are kept in remand thereby contributing to congestion in prisons. This is done despite the availability of experienced experts on the spot in identifying these items who are not recognized by the courts.
- 3.9 Organs dealing with administration of criminal justice i.e. investigative organ like the Police and Anti-Corruption Squad, the Director of Public Prosecutions office dealing with prosecutions, the judiciary dealing with adjudication and the Prisons Department dealing with custodial upkeep of suspects and convicts have such close inter-related duties and responsibility that any financial improvement in budget or in the welfare of personnel and working instruments and environment in one organ cannot bear fruitful results in criminal work without similar improvement in the other organ will directly affect the performance of the other organs. Like-wise any handicaps or problem in the organ will directly affect the performance of the other organs. This is so because each of these organs is completely dependent on the other function-wise. This disparity in financial capabilities and motivations among the four pillars-organs. This is so because each of these organs is completely dependent on the other organs function-wise. Thus disparity in financial capabilities and motivations among the four pillar organs dealing with administration of criminal justice has bogged down and frustrated quick dispensation of justice leading to Congestion in Prisons.
- 3.10 Section 341 of the Criminal Procedure Act provides inter-alia that persons twice convicted of offences punishable with imprisonment of three years or more shall be subjected to police supervision after their release from prison. This provision enables the police to keep track on habitual criminals, especially robbers, burglars and house breakers, thereby preventing them from engaging in further criminal activities thus keeping them away from jails. Such preventive measures would be one way of easing congestion in prisons. But, it is hardly ever done by the courts and the Police in practice.

- 3.11 Under section 222 of the repealed Criminal Procedure Code the Police were empowered to withdraw charges of murder in respect of accused persons in preliminary sufficient evidence against the accused. As there is no such provision in the Criminal Procedure Act all such cases have to be referred to the State Attorney or Director of Public Prosecutions, who is empowered under section 91(1) of the Act to enter *Nolle Prosequi* in these proceedings.

This is a lengthy process which takes a long time and has caused a considerable workload on the Police as well as on the office of the Director of Public Prosecutions. Much time of investigating officers is taken up in compiling these case files whose statements have to be typed in quadruplicate. Covering reports and letters be prepared from the District CID for onward transmission to the Director of Public Prosecutions.

This cumbersome procedure has to be followed even where the suspect was arrested on more suspicion without a shred of evidence. Most of these suspects are arrested on information received and are charged in court in order to abide by the law of limitation in keeping the suspect in police custody to uncover evidence. Provision charges are sometimes filed against the suspects for failure to arrest them in time results in their disappearing.

- 3.12 In its deliberations, the working group realised that lack of coherent programme of research, data collection in Crime Statistics and mass education on moral values have contributed immensely to the increase of Criminality in Tanzania.

- 3.13 The extra-mural penal employment scheme is stipulated in section 72 of the Prisons Act, 1967. Of late, however, the scheme has only remained in the books for the appropriate organs of the Government which are supposed to benefit from the scheme have not bothered to utilize it. In the course of their work, the members of the Working Group visited several prisons in the country and held meetings with several Government Officials on the subject of reviving this scheme. In the course of the discussions held between the members of the Working Group and the relevant authorities, it was clear that not many district and regional authorities, it was clear that not many district and regional authorities were aware of the scheme.

Those few who were aware of the scheme expressed their appreciation of the scheme and suggested that it should be expanded to include prisoners other than those allowed to participate in the scheme under section 72 of the Prisons Act. Prisoners who can correctly benefit from this scheme are only those sentenced up to 6 months imprisonment or whose remaining sentence is less than 6 months imprisonment.

- 3.14 The resettlement of habitual Offenders Act was enacted at the beginning of 1969 following the ruling Party's directive (TANU) to that effect. The Act provides for the establishment of centres of habitual criminals (recidivists). The purpose of establishing these centres was to try to resettle habitual criminals upon completion of their sentence in surroundings which resemble communal villages. The aim was to administer them outside the prison system, and the Department of Social Welfare was expected to be heavily involved in their administration.

However, a study conducted by prof. Shaidi in the late 1970s [refer East African Law Review Vol. 15 (1982) pp.153 — 174] shows that these centres have never been administered

in accordance with the law establishing them and they are beset with a number of problems which have hindered the rehabilitation of recidivists.

One of the reasons that magnify the problem of congestion in our Prisons is the failure to curb recidivism. After a thorough and careful discussion on this aspect, the working group is of the view that the total lack of Parole system and the after-care department in Tanzania has aggravated congestion in prisons.

- 3.15 The Working Group is of the view that with the introduction of severe prison sentences under the Minimum Sentences Act, 1972 the Economic and Organized Crime Control Act, 1984 and other similar legislations, prisoners serving extraordinary long sentences are not fully employed, due to lack of facilities, like industries in maximum security prisons where this category of prisoners are kept, in view that for security reasons, prisoners in this category are not fit for employment in open farm prisons which employ about 70% of prison population.
- 3.16 Of late there have been incidents of corruption and complaints of corruption involving the administration of personnel in the criminal justice organs. These complaints have reached alarming proportions and the working group views this trend as very damaging to proper and efficient functioning of the relevant organs.
- 3.17 When the Working Group on Congestion in prisons visited the border areas of Kagera Region, for example, it found out that a large number of inmates were foreigners from neighbouring countries. For example, on 22 September, 1987 Kayunga Prison (Karagwe) had inmates from the following neighbouring countries: -

Rwanda	—	53
Uganda	—	11
Burundi	—	6
Kenya	—	1
Zaire	—	0

One obvious conclusion that the Working Group drew from that pattern of inmates was that there is apparently laxity in controlling immigration into these border areas. Another drawback that the working Group found in these border areas was that both the Judiciary and Police have staff that are either indifferent or incompetent in handling problems peculiar to border areas.

We give an example of a District Magistrate, who at the time of our visit, had not been seen for two months, because he had gone on leave, then after leave, had gone for a funeral and then to a conference. For those two months court work was at complete stand still.

- 3.18 The Working Group visited those heavily congested prisons and discovered that in some of them there are lactating mothers who are not working at all (in the case of prisons for convicts). They are not working because they are engaged in taking care of their babies.

In some of these prisons, minors were found. It was, therefore, the view of the Working Group that these children find themselves in an environment not conducive to their proper

up-bringing. This way the system could be nurturing future criminals inadvertently.

3.19 The Working Group found that one of the reasons for congestion of convicts and remandees in prisons was the deteriorating standard of moral behaviour of our youth, resulting in those youths committing all types of crime. A random glance at inmates by a justice of the peace who may visit prisons will discover that approximately half of the total number of inmates will be persons age between 12 and 35 years.

3.20 When the Working Group visited prisons, the issue of condemned prisoners was also considered. It is a general view that the number of prisoners facing the death penalty is relatively large, to the extent that three condemned prisoners would occupy one cell generally meant for one prisoner. This unusual congestion, the Working Group discovered is caused largely by the inordinate delay in getting the Final Order of their fate from the Committee on the Prerogative of Mercy.

It was generally felt that the Presidential Committee on Prerogative of Mercy that recommends for His Excellency the President on what to do with a condemned prisoner has not of late been fast in making its recommendations. The net result has been that these prisoners have been waiting for long to know their fate resulting into their congestion.

3.21 Even where, under the penal Code, the courts are empowered to impose a fine as an option, imprisonment is metted out without the option to pay fine.

3.22 Unnecessary adjournments are granted even where circumstances would warrant immediate hearing of a case.

3.23 The Economic Courts:

Attempts have been made by the Parliament to set up special judicial or quasi judicial bodies to expedite cases of a particular nature or to bring the services of administration of justice nearer to the people. For example in 1983 which established the Economic Sabotage Tribunal aimed at disposing off cases quickly on the spot by removing the hurdles of certain evidential procedural rights and the services defence advocates or the right of bail or appeal, inter alia,

Despite the success of tribunal in disposing off cases quickly it created other problems of congestion in prisons for lack of bail and long custodial sentences. Thus it was abandoned within only 1½ years of its operation because its existence conflicted with basic human rights of being defended by an advocate or granted bail and the right of appeal. By 1987 the trial of economic sabotage cases were brought back to the normal court process with its inherit backlog and delays.

3.24 Trial by a Penal of Magistrates:

Attempts by the Judiciary in the late 1970s and early 1980s were made to win public Confidence by establishing a panel of three district and resident magistrates to hear certain sensitive cases for which there was public outcry and mistrust that a single district or

resident magistrate would not handle properly or fairly such cases of sensitive nature or public interest. Despite the success of these panels of magistrates in instilling confidence in the judiciary and fair justice they caused many delays in determining cases due to many adjournments as a result of lack of quorum for various good reasons i.e. if one magistrate fell sick the rest could not continue with hearing of the case. If the accused are in remand, they stayed there longer than necessary due to such delay in determining their cases. Ultimately the trial by a panel of magistrates was abandoned in practice.

3.25 Accelerated Trials

In 1985 the Parliament in passing the Criminal Procedure Act No. 9 of 1985 brought in a new principle of accelerated trial and disposal of cases. In every criminal case before trial under section 192 of the Criminal Procedure Act, 1985 there shall be a preliminary hearing in which facts not in dispute can be agreed upon by the parties to the suit after which they need to be proved any further by calling witnesses.

This procedure applies both in the High Court and district courts in their original jurisdiction. Unfortunately this procedure applies only where the accused is defended by an advocate and does not apply to primary court. The majority of cases are not defended by advocates and are filed in the Primary Courts.

- 3.26 Under section 193 of the CPA (Criminal Procedure Act 1985) a person charged with a warrant offence (with punishment not exceeding 6 months or 1,000/= shillings fine) may plead guilty without attending court through an advocate or letter. In section 194 of the CPA the accused charged with non-warrant case which is not punishable with death or life imprisonment may give notice of his readiness to plead guilty and the court shall proceed to convict and punish him accordingly. Under section 213 minor offences (which carry a punishment of 6 months imprisonment or 1,000/= fine) can be disposed of by the court without any formal recording of evidence etc. except for the judgment. Under section 206, 208 and 209 evidence of witness can be taken by commission at the nearest court if it is necessary for good of justice, or to avoid delay and other inconveniences.
- In practice, most of these provisions mentioned in this part are hardly ever utilized by the courts, the prosecution or the accused on the simple reason of ignorance of their existence or lack of initiative to utilize. If these provisions were fully utilized there is no doubt that cases would have been quickly disposed off thus reducing congestion in prison.

- 3.27 The year of 1985 witnessed another monumental legislation called The Ward Tribunal Act No. 7 of 1985 which was meant to reduce the workload of the judicial courts at the level of the primary and district court. The Ward Tribunal is a kind of the pre-1963 local courts which dealt with customary laws and minor criminal offences. These tribunals must be established in every ward in Tanzania mainland and they have criminal jurisdiction to hear cases which are scheduled under the Act so long as punishment does not exceed 2 years imprisonment or fine of 2,000/=.

The Ward Tribunals have also civil jurisdiction to deal with dowry dispute, adultery and marriage reconciliations under the Marriage Act. The implementation of the word tribunals has been compounded by the slow pace of their establishment. In the last six years it has

been possible to establish the tribunals in only six regions i.e. Mwanza, Tabora Shinyanga, Mara, Singida and Arusha out of the 20 regions of the Mainland. The main excuse has been lack of funds to carry out education seminars to the officers who will implement the Act at the grass — roots level. With this strategy it might take another 10 years in order to establish the ward tribunals all over the country. There is need to change the whole strategy in implementing the establishment of the Ward tribunals.

3.28 Pleas of Guilty to Lesser Offences:

There are provisions in the Criminal Procedure Act 1985 allowing for conviction to kindred or lesser or minor offences even if the suspect was not originally charged with them (sections 300 — 306 CAA). In cases triable in subordinate courts these provisions do not pose much problem for courts at the time for taking the pleas of the accused if he pleads guilty to the offence charged or to a kindred offence the court can proceed convicting and sentencing him accordingly.

The conviction to a kindred offence can also be entered at the end of the trial. In some countries, unlike Tanzania, plea-bargaining is allowed at the stage of arraignment or even during the trial. Plea bargaining involves either the defence offering to plead guilty to lesser offences if the more serious offences are dropped by the prosecution or the prosecution proposing to the defence advocate or accused to the same effect.

On other occasions the prosecution in plea bargaining may propose to the accused that if he reveals or cooperates in exposing the evidence incriminating other co-suspects or co-accused he could be given immunity from prosecution. Both these procedures could go along way towards reducing the backlog of Criminal cases.

- 3.29 The act of an accused pleading guilty to an offence charged or to a lesser offence does not amount in law to a mitigating factor to the sentence ensuring thereof. The rationale has mainly been that accused persons might be tempted by the lesser sentence to plead guilty even if he/they are innocent. This motion is fallacious in view that even in offences with minimal sentences accused still don't plead guilty if they believe that they are innocent.

On the other hand there is no doubt that an accused person who does not plead guilty yet after trial he is convicted is less remorseful or sorry for the offence he committed thus more difficult to reform. He is also more of a financial burden to the state which has to meet all the expenses of witnesses for the prosecution and the defence. Worse still he leaves little room for reconciliation and breeds permanent enmity with the victim of crime in view that the act of denying the offence for those who are not innocent is invariably taken seriously by the victim of crime and the public at large as portrayal of the accused's arrogance and lack of sympathy for the injury or a loss suffered by the victim of his criminal acts.

Whereas if the plea of guilty by the accused is taken as a mitigating factor it would go a long way towards encouraging the accused person who is innocent to do so at an earlier stage. After all, to plead guilty in this manner would positively contribute towards the reduction of remandees and delay in determining cases in addition to the other good effects

expounded above.

- 3.30 Effective prosecution and control of unnecessary prosecution can reduce Congestion in prison considerably. Criminal investigations under the police, criminal prosecution under the Director of Public Prosecution and criminal adjudications under the Judiciary are vested in different organs for the statutory convenience of reducing concentration of criminal powers into the hands of one organ and as a means of check and balance against abuse of power by these organs.

The organ controlling criminal prosecution differs from country to country but in Commonwealth countries they are either placed under the DPP such as in Tanzania Zambia or under the Attorney General such as they are in Kenya and Zanzibar or under the Director of Public Prosecution with the superintendence of the Attorney General as it is in England and Malawi. Before Tanganyika obtained Internal Self Government in July 1961 Criminal prosecution were directly under the Attorney General. For lack of qualified lawyers and adequate paralegal manpower the Attorney General as early as 1943 like in the Metropolitan State, delegated almost all prosecutions to the police officers with the rank of sub-inspector and above with the exception of those serious cases triable by information in the High Court in its original jurisdiction. This is the position until now. There is no doubt that concentration of power of investigation and prosecution in the police force has occasionally been abused through remanding suspects who are quite innocent and taking them to court for the fun of it or other ulterior motives.

- 3.31 As early as 1977 the Report of the Judicial System Review Commission recommended the improvement of criminal prosecution in the country through the expansion of the office of the Director of Public Prosecutions nearer to the Regional and District levels and by taking over all prosecutions from the Police and other organs which deal with criminal investigation as well as prosecutions.
- 3.32 If criminal prosecutions are taken over the appropriate office of the Director of Public Prosecutions the investigative organs like the police, Anti-Corruption Squad etc. will be relieved of the prosecutory role which is hardly part of their main function. These organs will be able to concentrate and improve on their investigatory functions in view of the reduced workload and additional personnel which is currently tied up with prosecutorial duties. With improvement in investigations and additional manpower criminal investigations will be quickly and properly done which will reduce congestion of unbailed suspects and delays of trial of cases. There has always been a serious problem of bogus, wrong or unnecessary charges. The abuse of this power to charge someone even if there is no sufficient evidence available will be curbed if not completely eliminated because the investigative organs would have to satisfy the office of the Director of Public Prosecutions that there is sufficient basis for charging a suspect in court before one is arraigned. The Criminal process of suspecting an offender, arrest, investigation, arraignment in court and prosecution is taken for granted as being one transaction and automatic because it is done as one function by one organ i.e. The Police. This is wrong in principle for the victim of crime or the investigating organ is a keenly interested party unsuited to carry out the prosecution. The need for being objective, impartial, and free from personal whims and feelings must be maintained at the stage of charging a suspect in court because the decision to prosecute or

not is quasi-judicial and must be done by qualified and experienced personnel directly under the control of the Director of Public Prosecutions. Many of the cases which go to court now and end up with acquittals after a lot of loss of time, trial expenses and ordeal on the part of the accused and witnesses could be properly pruned out at this stage.

Once the power to investigate and prosecute are separated the investigating organ will submit its investigation record to an independent public prosecutor who if evidence warrants will proceed with the proper charges in court like in the United States of America (USA) or since 1986 like in England which bequeathed to us the present system of the investigation and prosecution being done by the Police and other investigative organs but has now abandoned it by creating the crown office of public prosecutions under the Director of Public Prosecutions which has taken overall criminal prosecutions from the police and other investigative organs.

- 3.33 For the time being control of the majority of criminal prosecutions in Tanzania is hardly done in practice by the Director of Public Prosecutions or a State Attorney incharge of zonal offices except in serious offences triable by the High Court in its original jurisdiction or which are referred to the Director of Public Prosecutions or State Attorney by the investigating organs themselves or if the DPP himself or state attorney to whom he has delegated powers directly interviews under section 90 and 91 of the Criminal Procedure Act. The office of the Director of Public Prosecutions had failed to control prosecution in the country for serious lack of facilities, personnel and office. Until now the DPP has been able to extend his office down to 8 zones in a country with 20 regions. Anybody is left to guess what ill —effects have resulted from this vacuum, but no doubt abuse of Prosecutions had failed to control prosecution in the country for serious lack of facilities, personnel and offices. Until now the DPP has been able to extend his office down to 8 zones in a country with 20 regions. Anybody is left to guess what ill —effects have resulted from this vacuum, but no doubt abuse of the Criminal process resulting into congestion in prison could be one of the main side effects.

Furthermore, the disciplining of public prosecutors who are appointed by the Director of Public Prosecution or are supposed to be under his control is vested into the other authorities with whom the public prosecutor is employed outside the office of Director of Public Prosecutions or the Justice Department. This breeds incompetent and relaxed prosecutions.

PART IV:

4: CONSEQUENCES OF CONGESTION IN PRISONS

4:1. The increasing number of prisoners adversely affects the security, food services, full boarding facilities and medicines estimate for a specific population of prisoners. The ultimate result is a general denial of basic human rights of a prisoner as sent out in the UN Convention of Treatment of Offenders and Prisoners and our own Municipal laws and regulations. The continuous denial of human rights to prisoners becomes a political question in the long run for Prisoners are under the responsibility of the Government and the Prisons Department is an arm of the Executive.

4:2. Risk of contraction of contagious diseases. In most of the Prisons, congestion of Prisoners is so serious that the inmates do not have enough living space. In terms of the law each prisoner is entitled to an area of 30 square feet. In contrast, it was observed for example that in Arusha in mid 1986 there were 76 prisoners, which is 500% over congestion. By July 1st, 1991 the situation had worsened for there were 2110 prisoners in Arusha Prisons instead of required prisons capacity for 318 prisoners which is 605% over congestion.

A situation like this causes spread of diseases like tuberculosis (TB) cholera, scabies, diarrhoea etc. there are some prisoners who have even died in prison because of diseases contracted in prisons.

4:3. Owing to congestion in prisons, it is difficult for the Prison Officers to pursue their duty not only in guarding the prisoner, but also in rehabilitating them, for instance, it is very difficult for Prison Officers to identify or separate prisoners and suspects according to their character, behaviour or age. It is also difficult to train and rehabilitate them in preparation for their reception back into their societies on their release from prison.

4:4. In view of the harsh conditions created by congestion in prisons suspected criminals in order to avoid being remanded or imprisoned daringly undertake by hooks and crooks to pervert the course of justice so as to win their freedom through corruption, forgeries, escaping from custody, destruction of evidence and exhibits and even elimination of key witnesses through murder and political or blackmail intrigues.

4:5. As for the suspect or convicted prisoners and their close relatives or acquaintances who suffer the ordeals of the prison congestion they face the danger of developing permanent impairment of their sense of human faith in the Government and the entire system of administration of criminal justice revolution and disorder.

4:6. For the children and juvenile offenders in addition to the above the consequence of congestion in prisons detrimentally affects their upbringing since they are exposed to and mixed with adults and hard core criminals who exploit them and irreparably damage their good character, behaviour and morality.

PART V:

5: EXPANSION AND MODERNISATION OF PRISONS

- 5.1 The vastness of the country and its transport and communication problems, the rates of growth of the population, crime and multiplicity of administrative areas, all demand a corresponding increase in the number of prisons for both convicted and unconvicted prisoners.

The recommendation on these aspect calls for construction of new prisons in proportion to administrative areas, with priirty given to areas with high crime rates.

- 5.1.2 It also calls for modernization and expansion of old prisons.

- 5.1.3 Any future demarcation of new administrative areas should also take into account the construction of new Police stations, courts and prisons. However, these new prisons, Police station and courts should be constructed to suppliment the old prisons Police stations and courts within the specific problematic areas in the country.

- 5.1.4 Every region should have one prison with an adequate wing for condemned prisoners; at least every district should have a district prison. The Working Group recommends that the following areas be given special priority in building remand prisons because of the serious problem of congestion or absence of prison facilities nearly.

ARUSHA:	Arusha Municipality and Monduli districts;
COAST:	Kibaha and Kisarawe districts;
DAR ES SALAAM:	Ilala and Kinondoni districts;
IRINGA:	Iringa Municipal, Mafinga Town in Mufindi Districts and Makete Districts;
KAGERA:	Bukoba Town, Muleba and Biharamulo districts;
KILIMANJARO:	Hai, Rombo and Mwanga districts;
MBEYA:	Ileje, Mbozi and Kyela districts, Chunya Districts and Mbeya Municipality;
MOROGORO:	Morogoro Municipality;
MWANZA:	Mwanza Municipality and Ngudu district;
SHINYANGA:	Shinyanga Town.

5.1.5 The Working Group recommends that there should be established (Constructed) six zonal prisons as recommended in the Report of the Executive Committee on the Problem of Congestion in Prisons herein attached as appendix E .

5.2 EXPANSION OF REMAND HOMES AND APPROVED SCHOOLS AND IMPROVEMENT OF THE PROBATION DEPARTMENT:

5.2.1 The Department of probation should be independent and placed in a more relevant ministry like the Ministry of Justice and should be improved by expansion of its services and trained manpower to the level of every court with original criminal jurisdiction.

5.2.2 The increase in juvenile delinquency calls for construction of more remand homes and approved schools. There should be built a remand home in every region.

5.3 DELAY IN THE HEARING OF CASES:

5.3.1 As part of an endeavour to solve the chronic problem of delays in the hearing of cases, the Working Group commends the action taken by Judiciary in establishing Case Flow Management Committees and a two — shift system of hearing cases in District and Resident Magistrates Courts, and recommends that the committee should be strengthened.

The Working Group recommends further that section 366 (2) (a) of the Criminal Procedure Act, 1985 should be amended so that failure by the convicted appellant to appear at the time of hearing the appeal should not bar the judge from proceeding with the appeal, even in cases where the appellant indicated a wish to be present.

5.3.3 As regards delays in the delivery of copies of judgements to appellants who are in prison, the Working Group recommends that enough typing and word processing facilities and competent personnel should be provided to District and Resident Magistrates Courts and the Attorney General s Chambers. It should also be made statutorily possible to appeal without the copy of Judgement being attached.

5.3.4 It is also recommended that the Judiciary Administration should supply copies of judgement within a maximum period of three (3) months and take disciplinary action against any court Official who without good cause or deliberately frustrates quick supply of copies of judgements to appellants.

5.5.5 Also, as regards the way the administration of Criminal justice is constitutionally arranged, it is recommended that plans for expansion, development and improvement in one organ related to dispensation of Criminal justice should involve the other organs must be co-ordinates in the implementation and supply of financial Material support and motivate.

5.5.6 Furthermore, the Government should provide enough funds facilities to all relevant organs namely the Judiciary, Attorney Generals Chambers, the Police and Prison, to promote efficiency and uninterrupted services. Such facilities include office accommodation, personnels, motivation, courtrooms, motor vehicles, stationery and equipment.

5.5.7 Preliminary Hearing:

It is recommended that preliminary hearing under section 192 of the Criminal Procedure Act (CPA) should be extended by statutory amendment to cover criminal proceedings in primary courts and even in cases which are not defended by advocates in District, Resident Magistrates, and High Court.

5.5.8 Preliminary Investigation:

In serious triable by the High Court in its original jurisdiction it is recommended that, the present committal proceedings should be improved upon by removing the statutory requirements in section 245 (7), 246 (1), (2), (3), (4) and (b) of the Criminal Procedure Act (CPA) and substituting therein the following procedure:-

- (b) The Director of Public Prosecutions while filing information to the High Court in Compliance with section 245(6) of the Criminal Procedure Act shall send a copy of the same information to the subordinate court which on receiving it shall commit the accused for trial to the High Court and transfer the file to the Registrar of the High Court for the same purpose.
- (c) The Registrar on receiving the information filed by the Director of Public Prosecutions and the accompanying copies of witness statements shall fix the case within a period which does not exceed one month for plea taking.
- (d) At the time of plea taking if the accused pleads not guilty a date for preliminary hearing will be fixed. At the time of plea taking the accused or his advocate shall be served with the copy of the statements of witness etc.
- (e) Thereafter, the procedure will proceed as per current statutory provisions of the Criminal Procedure Act. This new procedure is meant to hasten hearing of cases triable by the high Court and reduce long stay in custodial remandees before hearing of High Court sessions. The purpose of the preliminary hearing was meant to keep the accused aware of the evidence available or amassed against him. This purposed in view of the newly introduced procedure of preliminary hearing, will still be maintained before the trial begins.

5.5.9 Accelerated Trials

- (b) Courts, suspects and advocates should fully utilize procedure for warrant offences (section 194) Judicial circular should be made to magistrates to enforce this recommendation.
- (c) Warrant offences should be expanded to cover offences punishable with imprisonment of up to 3 years and fine of up to 100,000/-.
- (d) The procedure for disposing off minor offences under section 213 of Criminal Procedure Act should be encouraged and offences to be treated as minor offences

under this section should include all offences attracting a punishment of not more than 3 years or fine not exceeding 100,000/-. A judicial circular should be issued to Magistrates to implement the first part of this recommendation.

- (e) Taking evidence of witnesses by commission (sections 207 — 9) within and outside the country should be encouraged. A judicial circular should be issued to Magistrates in this regard.

5.5.10 Establishment of Ward Tribunals

Ward Tribunals should be established throughout the country without further delay by doing the following:

- (a) There should be held one or two seminars for the remaining regions of Tanzania Mainland in one or two centers only for the RAO, DO, DED, and City Municipal and Town Directors, District Magistrates and solicitors in the affected areas who in turn would go and continue holding seminars in areas of jurisdiction within a given maximum period not exceeding any current financial year.
- (b) Thereafter, each local government should be free to establish ward tribunals in their respective areas within a set time limit of 18 years at the maximum period from the date of the all officers seminar above mentioned in paragraph (a) here in above.
- (c) The present lawyers who conduct the seminars (from the Justice Department and Local Government Ministry) would then concentrate on inspection of all the Districts of the remaining regions in order to ensure national uniformity in establishing and implementing the ward tribunals throughout the country rather than carrying out the seminars themselves up to the level of the District or Town.
- (d) The Criminal jurisdiction of ward tribunals should be further expanded to cover all offences punishable with imprisonment not exceeding 2 years or fine of 50,000/-.
- (e) The rule and involvement of traditional defence groups and militia in keeping law and order and in preventing or detection crimes within the confines of the law should be expanded and improved upon for with lesser crime prisons congestion will be reduced for lack of remandees or prisoners under incarceration.

5.5.11 Plea Bargaining and Pleas to Lesser Offences

- (i) The Criminal Procedure Act 1985, the Economic and Organized Crimes Act 1984, the 3rd schedule to the magistrates Courts Act and the Minimum Sentences Act 1972 should be amended so as to allow for plea bargaining, immunity from prosecution for cooperating accused persons and lesser custodial sentences regardless of the Minimum Sentence Act where an accused person pleads guilty to a lesser offence under this programme.
- (ii) Plea taking should not be limited to the main offences charged but should cover all

the minor or kindred offences allied to the main offence and for which the court has power to convict without drawing fresh charges. For example in a charge of robbery with violence the accused should plead not only to the main offence of robbery with violence but also to the minor offences of theft or assault causing actual bodily harm etc. In case he pleads to any of these lesser offences it should be open for the public prosecutor to consider withdrawing the serious offence of robbery in case the evidence on theft having taken place or actual violence having been metted out respectively is questionable.

- (iii) The Principal of minor or kindred offences should be reviewed so as to cover a wider range of offences. For example armed robberies could have minor offences not only in theft and assault but also being found with offensive weapon under the National Security Act, 1970 or being in unlawful possession of firearm or ammunition under the Arms and Ammunitions ordinance. Also where there is any charge jointly charging more than one person it should be possible to convict for minor offences of conspiracy leading organized crimes under the Economic and Organized Crimes Act 1984 Accessory after the fact, aiding and abetting, attempt etc. under any other law which turns up to have been infringed provided that the punishment to be imposed shall not be higher than that which would be imposed under the main offence charged.

5.5.12 Improvement of the Administration of Criminal Prosecution

It is recommended that the 1977 Msekwa Report of the Judicial System Review Commission Covering the area of improvement of Criminal prosecution should be implemented fully i. e

- (a) The expansion of the office of Director of Public Prosecutions (DPP) nearer to the people up to the regional and district level as a counter part to the resident Magistrates court and the District court should be implemented without further delay.
- (b) The office of the DPP should take over all prosecutions from police and other organs which deal with Criminal investigation as well as prosecutions and recruit more professional prosecutor (State Attorneys) and non-professional Staff — (public prosecutors).
- (c) To start with the present police public prosecutors and other public prosecutors should be seconded to the office of the DPP until such time when they can be absorbed into the DPP's department. The qualifications and services of the public prosecutors should be established in resemblance to that of the District Magistrates.
- (d) The post of DPP should be made constitutional as it was in the 1961 Independence constitution of Tanganyika or as it is now in the Zambian or Mauritius Constitutions.
- (e) The government should order a package of incentives especially designated to cater for state attorneys and public prosecutors in order to include lawyers and other paralegal workers to work and specialize in prosecution as a lifetime job.

- 5:4:1 It is recommended that specialized training in investigation be expanded so as to get more experts in the Police Force. Every regional Crime Office should have at least one expert in each particular field such as handwriting, fingerprints, ballistic pathology etc.
- 5:4:2 It is recommended further that a national forensic laboratory be established with the Police Force to be headed by a qualified person holding a post similar to that of the government Chemist but answerable to the Director of Criminal Investigations and consequently to the Inspector General of Police.
- 5:4:3 It is also recommended that specialized units in the Police Force be strengthened and manned by trained personnel having proper equipment for executing their assignment efficiently. Such as:
- (a) Anti robbery squad
 - (b) Homicide squad
 - (c) Narcotics squad
 - (d) Anti — smuggling squad
 - (e) Fraud Unit
- 5:4:4 The System of fingerprints be taken all persons kept in police lock-ups as a matter of course irrespective of whether the person is to be charged in a court of law or not.
- 5:4:5 It is further recommended that there should be established a Criminal Records Office at every regional Criminal Crime Office for the preservation, comparison and identification of fingerprints in order to liaise with the courts and prisons department thereby keeping a proper record for use by all three institutions i.e. the courts, police and prisons departments. National records should continue being maintained at the Identification Bureau as it is now.

5:5 ESTABLISHMENT OF THE SUMMONS SERVICING SQUAD:

- 5:5:1 It is recommended that a Summons serving squad be established in a new format in regional and district crime officer. This squad could be placed under O/C prosecution for easy Co-ordination between investigators, prosecutors and summons servers.
- 5:5:2 It is further recommended that these squad be equipped with motor cycles to enable them perform their tasks efficiently.
- 5:5:3 It is also recommended that some allowance be paid to members of these squad to motivate them.
- 5:5:4 It is further recommended that to facilitate compliance with witness summons, the current penalty of fine of shs. 5,000/- for disobedience of witness summons should be increased to shs. 5,000/- and courts should strictly enforce it unless reasonable explanation is given for failing to obey such summonses.

5:6 RESETTLEMENT OF HABITUAL OFFENDERS

- 5:6:1 It is recommended further that habitual criminals, life prisoners and those convicted of serious offences be kept in maximum security prisons. Only persons serving light sentences or those on parole or about to be released should be kept in camp.
- 5:6:2 It is recommended that in order to minimize chances of collusion between dishonest court Clerks who aid accused persons to jump bail the format of the forms be revised to accommodate residential addresses of the sureties, signature for the court clerk preparing the forms and that of the prosecutor. These forms should be prepared in three copies, original to be kept in the Court Case File, duplicate to be kept in the police case file and the triplicate to be in the Court Records File.
- 5:6:3 In order to supervise these criminals, the system of police supervision should be strengthened to check the problem of rescidivism. This system could effectively be maintained by the Criminal Records Office to be established at Regional C. I. D Offices.

5:7 WITHDRAWAL OF CHARGES BY THE POLICE

- 5:7:1 In this regard in cases of unlawful possession of illicit liquor and Cannabis, sativa it is recommended that the relevant laws be amended to allow identification of these exhibits by long experienced police officers and/or ten cell leaders be admissible in evidence. This will speed up the hearing and determination of cases thereby giving relief to congestion in prisons.

5:8 PRINCIPLE OF BAIL

It is recommended that, section 148 of the Criminal Procedure Act of 1985 should be reviewed in order to maintain the principle that concept that bail is a right (and not a privilege) of the accused person. That the accused is presumed to be innocent until proved guilty and that an accused person should not be denied bail as a means of punishing him or her vis a vis the principle that an accused person must attend trial etc.

5:9 THE NEED TO ESTABLISH A RESEARCH UNIT WITHIN THE MINISTRY OF HOME AFFAIRS

It is recommended that a permanent organ be established with the aim of conducting research into trends of Criminality in Tanzania and advise the government on appropriate measures to deal with the problem. The Commission may inter alia do the following:

- i) Conduct research on the causes of crime in Tanzania;
- ii) The trends in criminality in the country;
- iii) Possible measures to arrest the situation;
- iv) To act as custodian of all Crime statistics in the Country in the Field of Crime Prevention Treatment and the rehabilitation of offenders;
- v) To co-operate with other local international organizations and institutions with similar aims in disseminating information on Crime and possible remedies.

- vi) To act as principal advisor to the government on all matters relating to crime prevention and the treatment of offenders.

It is hoped that with such organ in the country, the government will be kept aware at all times, of the crime situation in the country to enable it take possible measures to arrest explosive situation in time. By so doing, it is envisaged that in the long run more people will refrain from indulging into criminality and thus keep themselves away from prisons hence reducing Congestion in the Prisons.

5:10 MONTHLY AND ANNUAL RETURNS OF INMATES

Monthly and annual returns of inmates from the Prisons Department e.g. delay in criminal trials which is submitted to the appropriate courts and the Registrar of the High Court should also be made available to the Chairman of the Case Flow Management Committees in their respective Districts, Regions and Zones as well as the Director of Public Prosecutions and all other related organs. These returns should be the subject of discussion in all the appropriate organs and appropriate action be taken where necessary.

5:11 EXTRA — MURAI PENAL EMPLOYMENT:

The Working Group recommends as follows:-

- (a) The scheme should be revived and strengthened all over the country;
- (b) The Ministries of Justice, Home Affairs and Local Government should embark on educational programme to educate the relevant authorities on the existence and implementation of the scheme.
- (c) The law should be amended to include Prisoners serving up to two years imprisonment to benefit from the scheme as opposed to the present limitation of one year.

In this regard we recommend that:

- (i) The continuation of the Scheme as it is at present should remain, and in addition prisoners serving sentences of up to two years be eligible for the scheme provided that those serving sentences of over one year must serve at least one quarter of their sentences before qualifying for release under the Extra — Mural Penal employment scheme.
- (ii) Courts should be empowered to disrecommend a person duly convicted from benefiting from the Scheme even though the sentences does not exceed two years.
- (d) The agencies which may utilize the labour of Extra — Mural labour scheme be extended to include: Government Department, All Public Enterprises including Parastatal Organization, Local Government Authorities but under circumstances should Private Individuals be provided with prisoners under the Extra — Mural Penal Employment scheme.

- (e) Prisoners committed for a period not exceeding six months should be placed in the hands of local government leadership.
- (i) In order to ensure that local Government effectively and at all times make use of these people there is need to liason with the parent Ministry and require that all local governments or councils do establish in their administrative structure a permanent and adequately staffed section with adequate working facilities to deals with community service matters and remain a regular recipient of extra-mural labourers.
- (ii) During their whole period of service such labourers should be entitled to, say, a quarter of a casual labourer s wage as lunch allowance, for each day worked.
- (iii) In order to ensure that extra-mural labourer s own home economic wellbeing is not unduly disrupted, such laboureres should have some days in a week — (say three days) reserved for their own home activities. Such days could be counted as $\frac{1}{3}$ remission of the prison term imposed. Alternatively, such days could be discounted when computing the days to be served in the 6 month term.
- (iv) In order to avoid the need to have to establish work camps, adequate transport facilities should be provided, provided always that of the two the cheapest course of action should be adopted.
- (f) Prisoners committed for a higher period:
 - (i) It is suggested that in order to ensure proper supervision and discipline these should be left in the hands of prison leadership. They, too, could be coming from their respective homes but would be employed and utilized in prison economic projects outside prison, such as building projects, gardening or smallscale industrial projects.
 - (ii) To that end prisons should have an economic production section in their administrative structures to cater for such persons committed to community service for such period.
 - (iii) What has been said for the extra — mural labourers of lesser prison terms, in respect of much allowance, off-days in a week and remission, should apply to this category of extra-mural labourers as well.

5:12 MINOR OFFENDERS AND DEFAULTERS OF PAYMENT OF FINES DEVELOPMENT LEVY —TAX DEFAULTERS

5:12:1 The Working Group recommends that at no time should defaulters idle and disorderly person, rogues and vagabonds who are first offenders be imprisoned in jail. The only substantive penalty the development levy defaulters, idle and disorderly person rogues and vagabonds should be fine. For those who fail to pay the fine imposed by the Court, they should be ordered to do communal — based labour given to them by the District/City/ Municipa/Town councils, village government concerned.

5:12:2 Levy tax defaulters should be tried by Ward Tribunals besides the other Courts.

5:13 The Minimum Sentence Act, 1972 should be amended in section 6 and 5 so that:

- (a) The lowest amount of money or value of property to attract the Minimum custodial sentence of 3 years imprisonment should be increased from shs. 100/- to 5,000,000/-.
- (b) The lowest amount of money or value of property to attract the minimum custodial sentence of 5 years imprisonment should be increased from 5,000/- to 1,000,000/-.
- (c) The High Court should be given power to impose a sentence other than the minimum sentence in exceptional cases where special circumstances of the case make the minimum sentence imposed by the lower court to be both manifestly excessive and repugnant to good justice.

5:13:1 It is recommended further that, for long term prisoners, it is incumbent upon the government to provide the necessary facilities to facilitate their employment during their stay in Prison or else prison, to them (the long term prisoners) will appear to be a holiday resort which is not the purpose of imprisonment. Queries with the necessary equipment should be revived employment for the hard core criminals in an organized way. The government may also wish to introduce new industries in prisons such as the printing industry which is a common phenomenon in Prisons all over the World. By introducing these industries in Prisons, Prisoners will acquire skills which will assist them to lead an honest life after release from Prison hence the possibility of preventing them from reverting to criminality with the possibility of re — admission for Prisons.

5:14 ESTABLISHMENT OF PAROLE AND AFTER CARE SERVICES IN THE PRISON DEPARTMENT

It is recommended in this regard as follows:

- (a) Parole system which allows prisoners serving long sentences to be eligible for release on specific conditions before the expiry of their sentences be introduced in Tanzania. The Working Group is aware that this proposal has been put forward before by a government appointed Committee which submitted its proposals to the government in 1986. The Committee has an opportunity to examine the said proposal and recommendations put forward by the Prison Department as part of implementation of the said Government Report, and this committee recommend the same be adopted for implementation. (A copy of the recommendations on Parole is attached herewith as Appendix D)
- (b) In introducing a Parole system in our prisons, the Government has to establish a machinery to supervise the parolees. After care Department be established within the Prison Department to undertake this assignment.
- (c) The recommended department in para (b) above shall also take care of all prisoners released from prison from the time of their release until they reach their place of residence. The department shall also communicate with village authorities and prospective employers with a view of finding employment/resettlement for the released inmates.

5:15 Corruption and Complacency within the Organs Dealing with

Criminal Justice

The Working Group recommend as follow:

- (i) All known corrupt elements within the criminal justice organs should be removed without any further delay.
- (ii) The process of vetting public officials holding sensitive positions in the government should be carried out with special care and emphasis within the Judiciary, Prisons and the other organs dealing with the administration of Criminal Justice in the country.

APPENDIX A

The Hon. Mr. Justice D.Z. Lubuva, M.P.,
The Attorney General and Minister for Justice,
P.O. Box 9050,
DAR ES SALAAM.

Dear Minister,

1: RE: REFERECNE ON THE PROBLEM OF CONGESTION IN PRISONS:

Pursuant to the provisions of section 9(1) of the Law Reform Commission of Tanzania Act, 1980 we have the honour to inform you that we have decided to undertake the examination of the problem of congestion in our prisons with a view to making appropriate recommendations, legislative or otherwise, to Government for the purpose of minimizing the magnitude of the problem.

2: MAGNITUDE OF THE PROBLEM:

Of late the congestion in remand prisons, remand homes and jails has reached alarming proportions as witnessed by a random glance at the figures. Five prisons in the country, namely, Keko, Musoma Tarime, Manyoni, Singida and Kiomboi have a total capacity of 893 prisoners only but currently they are holding more than double that number, i.e. 1934 prisoners!

3: ADVERSE EFFECTS:

The congestion in prisons has brought into disrepute the machinery established for the administration of justice generally and, in particular, the Judiciary, Police and prisons departments. Malnutrition, poor and inadequate facilities and health hazards are some of the effects of congestion, not to mention the fact the main goal of imprisonment, that is, rehabilitation of the prisoner, can hardly be achieved under these circumstances.

4: POSSIBLE REASONS FOR CONGESTION:

It is our belief that only deep and scientifically carried out research will reveal the real reasons for congestion but at the moment we intend to proceed on the hypothesis that congestion is caused by inter alia, the fact that:

- (a) the rules regulating bail pending trial or appeal are too restrictive and as a result many people who ought to have been out on bail are put on remand;
- (b) for administrative or legal reasons, extra-mural labour provisions of the Prisons Act, 1967 are not fully utilized;
- (c) the Minimum Sentences Act, 1972 and other Statutory provisions setting mandatory minimum custodial sentences deny the court the discretion in sentencing and thereby leading to a number of offenders, who would otherwise be given non-custodial sentences, being sent to prison;

- (d) even where, under the penal Code, the Courts are empowered to impose a fine as an option, imprisonment is meted out without the option to pay fine;
- (e) unnecessary adjournments are granted even where circumstances would warrant immediate hearing of a case;
- (f) the penalty for failure to obey a witness summons (fine of shs. 400/-) is so trivial that some potential witnesses for economic or other reasons, do not bother to attend court thus necessitating adjournments which, in turn, cause, as pointed out above, congestion in prisons;
- (g) the provisions relating to bail, trial, and the schedule of offences in the economic and Organised Crime Control Act, 1984 requires re-examination.

5: CONCLUSION:

Having set out briefly the nature, magnitude and likely causes of the problem we have decided to enquire into and report to Government any appropriate administrative and legislative measure which will reduce congestion in prisons.

Yours faithfully,

Sgd. — Chairman
Justice H.A. Msumi
Sgd. — Commissioner
A. Saidi
Sgs. — Commissioner
P. Msekwa

Prof. J.L. Kanywanyi — Commissioner

F.B. Mahane — Commissioner

Sgd. — Commissioner
M. Ismail

Sgd. Commissioner
E.N. Munuo (Mrs)

APPENDIX B

Offences suitable for Summary

Trials as a measure to reduce

CONGESTION IN PRISONS SEE S.213 OF THE C.P.A.

1. In Principle all Misdemeanours under the Penal Code

- S.75 - Unlawful assembly - 1yr
- S.76 - Riot - 2yrs
- S.89A- Watching and besetting (consent of DPP to be removed) - 6 months
- S.89B (1) - Intimidation (consent of DPP to be removed) - 1yr
- S.100 - Personating public officers - 2yrs
- S.101 - Threatening injury to persons employed in the public service - 2 yrs
- S.111 - Compounding felonies - 2 yrs
- S.112 - Compounding penal actions - 2yrs
- S.113 - Advertisements for stolen property - 2yrs
- S.114 - Contempt of court - 6 months
- S.144A- Wilfully preventing or obstructing service of execution of process - 1yr
- S.116 - Escaping from lawful custody - 2yrs
- S.116A- (1) Absence from Extra-mural employment - 2yrs
- S.122 - Giving false information to a person employed in the public service - 6 months
- S.124 - Disobedience of lawful orders - 2yrs
- S.125 - Insult to religion - 2yrs
- S.127 - Trespassing on burial places - 2yrs
- S.129 - Uttering words with intent to wound religious feelings - 1yr
- S.143 - Detention in premises with intent or in brother.- 2yrs
- S.148 - Brothels - 2yrs
- S.170 - Common nuisance - 1yr
- S.171 - Gaming houses - 1yr
- S.172 - Batting houses - 1yr
- S.173B- Chain letters - 6 months / 400/= fine
- S.175 - Traffic in obscene publication - 2yrs
- S.176A- Harbours common prostitutes - 1st 500/=2nd 1000/=
- S.177 - Rogues and vagabonds - 3 mos/1yr
- S.177A- Failure to account for money collected by public subscription -2-3yrs
- S.178(3)- Importing and selling uniforms without authority - 6 mos/2000/= fine
- S.179 - Negligent act likely to spread infection - 2yrs
- S.180 - Adulteration of food or drink intended for sale - 2yrs
- S.181 - Sale of noxious food or drink - 2yrs
- S.185 - Fouling air - 2yrs
- S.186 - Offensive trades - 1yr
- S.235 - Handling of prisoners substances in negligent manner - 6 months
- S.238 - Conveying person by water for hire in unsafe or overloaded vessel - 2yrs
- S.239 - Danger or obstruction in public way or line of navigation - Fine
- S.253 - Wrongful confinement - 1yr/3000/=
- S.256 - Unlawful labour - 2yrs

- S.265 - Stealing (pick pocketing) where amount stolen does not exceed shs. 10,000
- S.304 - Cheating - 3yrs
- S.308 - Pretending to tell fortunes - 2yrs
- S.309 - Obtaining registration etc. by false - 2yrs
- S.10 - False declaration for passport - 2yrs
- S.312A(2)- Unlawful possession of Govt stores -2yrs
- S.321A(3)- Unlawful possession of service stores -2yrs
- S.325 - Injuring animals - 2yrs
- S.329 - Removing boundary marks with intent to defraud - 3yrs
- S.332A- Defacing currency notes - Fine shs. 1000
- S.357 - Melting down of currency - 6 months.
- S.360 - Uttering counterfeit coin - 2yrs
- S.362 - Uttering medal or metal coin - 1yr
- S.366 - Paper and dyes for postage stamps - 1yr
- S.369 - Personation - 2yrs
- S.370 - Falsely acknowledging deeds; etc.- 2yrs
- S.372 - Lending etc. certificate for personation -2yrs
- S.373 - Personation of person named in a testimonial of character - 1yr
- S.374 - Lending etc, testimonial for personation - 2yrs
- S.381 - Attempt to commit offences - 2yrs
- S.383 - Neglect to prevent felony -2yrs
- S.289 - Accessories after the fact to misdemeanours -2yrs
- S.390 - Soliciting or inciting the Commission of an offence -2 yrs

2. Under other Laws

All offences with substantive penalty not exceeding two years of imprisonment or a fine not exceeding shs. 10,000/-

APPENDIX C

THE LAW REFORM COMMISSION OF TANZANIA

P.O. BOX 3580
DAR ES SALAAM

LRCC/A.100/1/40

6 September, 1991

The Hon. Attorney — General,
Hon. Mr. Justice Damian Lubuva,
Attorney-General's Chambers,
P.O. Box 9050,
DAR ES SALAAM.

Dear Hon. Mr. Justice Lubuva,

RE: IMPLEMENTATION OF COMMUNITY SERVICE ORDERS
(EXTRA-MURAL LABOUR) S.72 OF PRISON ACT No. 34 OF 1967

In the past and in accordance with the prison Ordinance, persons sentenced to terms of imprisonment not exceeding six months or committed to prison for such period in default of payment of fines used to serve such penalties, upon opting for extra-mural labour, under the supervision of an administrative officer of local government official.

That had been out of use for a long time from early seventies to date.

It has now been realized by the Government that in order to reduce congestion in prisons and also promote successful execution of self-reliance projects, local governments must be encouraged to make use of such labour force. Appreciable, the period has, of recent, as announced during the last Budget session, been raised from six months to one year.

In the past extra-mural labourers used to be employed in public works full time for the period of prison sentences imposed by the courts for a minimal allowance.

It would appear that the system collapsed on account of a number of reasons:

(a) Decentralization — with the resultant abolition of local government.

With such change the administrative structure did not make room for self-reliance community activities, so there was no one to come forward to look for such labour force.

(b) Magistrates, too, simply closed their minds, to such penal system and never thought of making orders for extra-mural labour. It could have been the result of inadequate training on sentencing to our lawyers. Prison officers in charge of prisons also get lax in discharging their duty of calling upon convicts of such prison terms to exercise their option to service extra — mural

labour, and those who did, were frustrated by the reply from the administration that there were no funds. Yet other casual labourers could be employed and paid more highly to do public works. Strange!

As discussed yesterday in your chambers, my concern is to air my views as to how the system of community service orders should be utilized in this country. The following are therefore my suggestions.

1. Those committed for a period not exceeding six months.

- (i) These people should be placed in the hands of local government leadership.

In order to ensure that local governments effectively and at all times make use of these people there is need to liaison with the parent Ministry and require that all local governments or councils do establish in their administrative structure a permanent and adequately staffed section with adequate working facilities to deal with community service matters and remain a regular recipient of extra-mural labourers.

- (ii) During their whole period of service such labourers should be entitled to, say, a quarter of a casual labourer's wage as lunch allowance, for each day worked.
- (iii) In order to ensure that extra-mural labourer's own home economic wellbeing is not unduly disrupted, such labourers should have some days in a week — (say three days) reserved for their own home activities. Sundays could be counted as 1/3 remission of the prison term imposed.

Alternatively, such days could be discounted when computing the days to be served in the 6 — months term.

- (iv) In order to avoid the need to have to establish work camps, adequate transport facilities should be provided, provided always that of the two the cheapest course of action should be adopted.

2. Those committed for a higher period

- (i) It is suggested that in order to ensure proper supervision and discipline these should be left in the hands of prison leadership.

They, too, would be coming from their respective homes but would be employed and utilized in prison economic projects outside prison, such as building projects, gardening or small scale industrial projects.

- (ii) To that end prisons should have an economic production section in their administrative structures to cater for such persons committed to community service for such period.
- (iii) What has been said for the extra-mural labourers of lesser prison terms, in respect of lunch allowance, off-days in a week and remission, should apply to this category of

extra-mural labourers, as well.

3. In all cases, where a convict has been issued with a community service order by a court, it should not be necessary for him to be taken into prison.

Instead, at every court, there should be in attendance, for purposes of such community service orders, an officer from the prisons Department and Local Government, who would then take record of such committals.

You may also wish to know that a few days ago I had occasion to talk over the matter with senior prison officers, namely Mangara and Malisa, who also proved to be agreeable to the proposed implementation scheme.

I hope you will find it or some of the aspects acceptable for implementation, and proper for advice to the authorities concerned.

Wishing you the best.

Yours sincerely,

Sgd.

Mr. Justice R.J.A. Mwaikasu

CHAIRMAN

LAW REFORM COMMISSION OF TANZANIA

APPENDIX D

MAPENDEKEZO KUHUSU KUWEPO NA KIFUNGU CHA PAROLE KATIKA SHERIA YA MAGEREZA YA MWAKA 1967 (ACT No. 34/1967)

1. Parole ni utaratibu unaowawezesha wafungwa wanaotumikia vifungo magerezani kuachiliwa kwa masharti kabla ya vifungo vyao kumalizika. Utaratibu huu hasa unawahusu wafungwa wenye vifungo vinavyojulikana muda wake (fixed Sentences). Wafungwa wa kundi hili ni sharti wawe na tabia nzuri, vifungo vyao viwe kamili (Fixed Sentences) kuanzia miaka 8 na kuendelea na wawe wameshatumikia zaidi ya 1/3 ya vifungo vyao. Utaratibu huu katika nchi kama Uingereza, Japan, Korea au Pakistan hujulikana kama Parole System. Katika nchi nyingine kama Sri Lanka utaratibu huu hujulikana kama Release on Licence. Kwa wafungwa waotumikia vifungo vya maisha, nao wanaweza kufaidika na utaratibu huu ingawaje masharti ya kuachiliwa kwao ni tofauti kidogo. Kimsingi wafungwa wanaotumikia kifungo cha maisha hawawezi kuachiliwa moja kwa moja bali uhuru wao ni wa masharti kwa kipindi cha maisha yao yote.
2. Kuna sababu za kimsingi zinazofanya utaratibu huu uwe mzuri. Utaratibu huu husaidia kudumisha nidhamu magerezani, hasa kwa wafungwa wenye vifungo virefu ambao Parole hutumika kama kivutio kwao kuwa na tabia nzuri gereza kwa mategemeo ya kufunguliwa mapema. Vile vile utaratibu huu huwafanya wafungwa wenye vifungo virefu kuachiwa mapema kabla ya wakati wao kwa masharti ili warudi katika jamii kwa mtazamo kwamba wanaweza kuachiliwa moja kwa moja ili washirikiane na wananchi katika kulijenga Taifa. Utaratibu huu pia, husaidia kupunguza msongamano wa wafungwa magerezani. Parole sio haki ya mfungwa bali ni upendeleo tu kwa wale watakaonyesha mwenendo na tabia nzuri magerezani.
3. Utaratibu wa Parole unaweka sharti la kuwa na bodi maalum (Parole Boards) ili kushughulikia mapendekezo ya Magereza kuhusu wale wafungwa wanaostaili kuachiliwa chini ya utaratibu huu. Bodi hizi zipo katika ngazi za mikoa (Regional Parole Boards) na kitaifa (National Parole Board). Bodi ya Mkoa itakuwa na jukumu la kupokea, kuratibu, kutathmini, kuhoji na kuridhika kuhusu wafungwa waliopendekezwa na Mkuu wa Gereza kwamba wanatimiza masharti ya kuachiliwa chini ya utaratibu wa Parole .
4. Kwa kuzingatia maelezo yaliyotangulia, inapendekezwa Bodi hizo ziwe na Wajumbe na muundo ufuatao:
 - (i) Bodi ya Mkoa (Regional Parole Board) iwe na wajumbe wafuatao:
 - (a) Mwenyekiti ambaye atateuliwa na Waziri;
 - (b) Katibu awe ni Mkuu wa Magereza wa Mkoa;
 - (c) Mkuu wa Polisi wa Mkoa;
 - (d) Mjumbe mmoja kutoka Wizara ya Sheria;
 - (e) Afisa Usalama wa Taifa Mkoa;

- (f) Afisa Ustawi wa Jamii wa Mkoa;
- (g) Wajumbe wengine wawili watakaoteuliwa na Waziri.

Inapendekezwa Mwenyekiti ateuliwe kutoka miongoni mwa Mahakama Wakazi na kadiri itakavyowezezana awe Msajili wa Wilaya (District Registrar)

(ii) Bodi ya Taifa (National Parole Board) inapendekezwa iwe na wajumbe wafuatao: -

- (a) Mwenyekiti ambaye atateuliwa na Rais;
- (b) Katibu awe ni Kamishna Mkuu wa Magereza;
- (c) Inspekta Jenerali wa Polisi au Mwakilishi ambaye hatakuwa chini ya cheo cha Kamishna wa Polisi;
- (d) Mjumbe mmoja kutoka Wizara ya Sheria;
- (e) Mjumbe mmoja kutoka Idara ya Usalama wa Taifa;
- (f) Kamishna wa Idara ya Ustawi wa Jamii;
- (g) Wajumbe wengine watatu ambao watateuliwa na Waziri.

Inapendekezwa Mwenyekiti wa Bodi ya Taifa awe Mtanzania mwenye hekima na uwezo wa kuchambua masuala ya kisheria. Inapendekezwa awe Jaji na ikiwezekana Jaji mstaafu na kazi yake iwe ya kudumu, na hivyo aweze kulipwa Allowance maalum ya Uenyekiti kwa mwezi na marupurupu ya vikao.

5. Inapendekezwa vile vile kwamba Waziri apewe uwezo wa kutengeneza taratibu za sheria (Regulations) katika mambo yafuatayo: -

- (f) Afisa Ustawi wa Jamii wa Mkoa;
- (a) Masharti kuhusu Parole na adhabu kwa watakaokiuka masharti hayo;
- (b) Marupurupu kwa Wajumbe;
- (c) Taratibu za vikao vya Bodi za Parole ;
- (d) Ufuatiliaji wa wafungwa walioachiliwa chini ya utaratibu wa Parole ;
- (e) Jambo jingine lolote ambalo Waziri ataona linafaa katika utekelezaji wa Sheria hii.

6. Hivyo kwa muhtasari inapendekezwa kwamba: -

- (f) Afisa Ustawi wa Jamii wa Mkoa;
- (a) Utaratibu wa Parole ukubaliwe na utungiwe sheria;
- (b) Kazi na miundo ya Bodi za Parole kama ilivyoelezwa katika para ya 3 na 4 (i) na (ii) ikubaliwe.
- (c) Waziri apewe uwezo wa kutengeneza taratibu za sheria (Regulations) kama ilivyoelezwa katika para ya 5.

**TAARIFA YA KAMATI YA MAOFISA WATENDAJI WAKUU (EXECUTIVE COMMITTEE)
KUHUSU MSONGAMANO WA WAFUNGWA MAHABUSU MAGEREZANI TANZANIA
BARA**

Taarifa hii imegawanywa katika sehemu zifuatazo: -

- (1) Utangulizi
- (2) Sababu za Msongamano
- (3) Athari za Msongamano
- (4) Mapendekezo
- (5) Mwisho
- (6) Viambatanisho

1. UTANGULIZI

- 1.1 Mtukufu Raisi Ali Hassani Mwinyi katika hotuba yake ya kufungua Bunge jipya tarehe 7 Novemba, 1985, alilitaja tatizo la msongamano wa wafungwa na mahabusu kwenye Magereza yetu kama mojawapo ya majukumu muhimu ya Serikali ya Awamu ya Pili. Alisema kwamba:

Serikali itachukua hatua za kupanua na kurekebisha majengo ambayo mengi ni ya zamani, mabovu na yenye nafasi ndogo. Kadhalika juhudi zitaendelezwa ili kufanikisha shabaha zetu za kuwarekebisha wafungwa kwa kuwapatia mafunzo ya kilimo bora, ufundi wa aina mbali mbali n.k. Ni jukumu letu Wabunge kwa ushirikiano na viongozi wengine kwenye majimbo yenu ya uchaguzi mnakotoka, kuhakikisha kuwa wafungwa ambao wamepata mafunzo ya kilimo, ufundi na kadhalika wanapofunguliwa toka Magerezani wanatumia ujuzi huo kwa manufaa yao na ya Taifa zima kwa jumla, badala ya kuwaacha wajiingize tena katika vitendo vya uhalifu.

Vile vile juhudi zitaendelezwa ili kuhakikisha kuwa polisi na Mahakama wanaharakisha kumalizwa kwa kesi ili kupunguza msongamano wa mahabusu waliopo rumande .

- 1.2 Tatizo hili la msongamano limejitokeza hasa kuanzia mwaka 1974 na limekuwa likiongezeka mwaka hadi mwaka. Uwezo uliopo wa magereza yetu ni kuweka wafungwa na mahabusu 19,737 tu ambapo tarehe 1 Februari, 1986 hali halisi ilionyesha kuwepo kwa wafungwa/ mahabusu 40,123, ongezeko la watu 20,386 au asilimia 103.3. Kati ya idadi hii mahabusu peke yao walikuwa 13,508 au asilimia 69.1 ya uwezo ulipo. Mnamo tarehe 1.4.86 magereza yetu yalikuwa yamefurika na yalikuwa na wafungwa wa aina zote 41,512.
- 1.3 Kutokana na uzito wa suala hili, Makatibu Wakuu na viongozi wa Idara za Ulinzi na Usalama chini ya uenyekiti wa Katibu Mkuu wa Rais walikutana tarehe 19.3.86 kujadili suala la msongamano wa wafungwa na mahabusu magerezani. Baada ya Wakuu hawa kutafakari kwa undani hali halisi ilivyo magerezani waliunda kamati mbili:

- (a) Kamati ya Watendaji Wakuu (Executive Committee) yenye wajumbe waliokutana tarehe 19.3.86
- (b) Kamati ya Maofisa wafuatiliaji (Task Force)

- 1.4 Kamati ya Maofisa wafuatiliaji ilipewa majukumu yafuatayo: -

- (a) Kuchunguza chanzo cha msongamano ulipo magerezani.
- (b) Athari za msongamano huu.
- (c) Kutoa mapendekezo ya muda mfupi na mrefu ya kurekebisha hali hiyo.

Kamati ya Maofisa wafuatiliaji ilikuwa na wajumbe wafuatao: -

- (1) Ndugu M.A. Abdallah Cabinet Secretariat (Mwenyekiti)

- (2) Ndugu O.E. Malisa Makao Makuu ya Magereza (Katibu)
- (3) Ndugu J. Brahim Wizara ya Mambo ya Ndani (Mjumbe)
- (4) Ndugu D.S. Dandi Wizara ya Kazi na Maendeleo ya Vijana (Mjumbe)
- (5) Ndugu N.M. Kisome Wizara ya Elimu (Mjumbe)
- (6) Ndugu P.P. Kitende Makao Makuu ya Polisi (Mjumbe)
- (7) Ndugu R. Mang enya (Bi) Wizara ya Fedha, Uchumi na Mipango (Mjumbe)
- (8) Ndugu B.O. Membe Ofisi ya Rais (Mjumbe)
- (9) Ndugu M.A. Mfunda Wizara ya Serikali za Mitaa na Maendeleo ya Ushirika (Mjumbe)
- (10) Ndugu E.L.K. Mwipopo Wizara ya Sheria (Mjumbe)
- (11) Ndugu A.A. Rwegarulira Wizara ya Afya/Ustawi wa Jamii (Mjumbe)
- (12) Ndugu P.E. Tilwe Ofisi ya Wazir Mkuu (Mjumbe)
- (13) Ndugu L.Y. Yaundey Makao Makuu ya Magereza (Mjumbe)

1.6 Katika kutekeleza jukumu lao, wajumbe wa Kamati ya Maofisa wafuatiliaji walitembelea ofisi za Wakuu wa Mikoa na Magereza katika Mikoa ya Arusha, D Salaam, Dodoma, Iringa, Kilimanjaro, Mara, Mbeya, Morogoro, Mwanza, Shinyanga, Singida na Tanga. Vile vile ujumbe ulitembelea Remand Homes ambazo zinaendeshwa na Idara ya Ustawi wa Jamii Moshi, Arusha na D Salaam. Kati ya Kamati pia ilisaidiwa sana na taarifa mbali mbali kutoka Usalama na Sheria.

1.7 Kamati ya Maofisa wafuatiliaji ilitoa taarifa yake kwenye kikao cha Kamati ya watendaji wakuu (Executive Committee) tarehe 6/6/86 iliyokuwa na wajumbe wafuatao: -

- 1 Nd. T. Apiyo Katibu Mkuu wa Rais -Mwenyekiti
- 2 Major Gen. I.H. Kombe Mkurugenzi Mkuu, Usalama wa Taifa — Mjumbe
- 3 Nd. D.S. Meela Katibu Mkuu — Sheria — Mjumbe
- 4 Nd. M.D. Mkumbwa Katibu Mkuu — Mambo ya Ndani — Mjumbe
- 5 Nd. S.A. Mwanguku Kamishna Mkuu wa Magereza — Mjumbe
- 6 Nd. W.H. Sekule Mkurugenzi wa Mashtaka ya Jinai — Sheria — Mjumbe
- 7 Nd. L.A.A. Kyando Msajili wa Mahakama Kuu — Mahakama — Mjumbe
- 8 Nd. T.B. Mihayo Msajili wa Mahakama Kuu — Mahakama — Mjumbe

- 9 Nd. F.T. Kejo Kamishna wa Bajeti — Hazina — Mjumbe
- 10 Nd. D.S. Dandi Kamishna wa Kazi Msaidizi — Kazi/Utumishi — Mjumbe
- 11 Nd. O.e. Malisa Kamishna Msaidizi Mwandamizi — Magereza — Mjumbe
- 12 Nd. P.P. Kitende Mratibu Mwandamizi wa Polisi — Makao Makuu ya Polisi — Mjumbe
- 13 Nd. J.M. Byalugaba Ikulu — Mjumbe
- 14 Nd. O.H. Tesha Ikulu — Mjumbe
- 15 Nd. P.L. Luhando Ikulu — Mjumbe
- 16 Nd. M.A. Abdallah Ikulu — Mjumbe/Mwandishi

2. SABABU ZA MSONGAMANO WA WAFUNGWA NA MAHABUSU MAGEREZANI

- 2.1 Katika kutafakari kwa ujumla sababu za msongamano wa wafungwa na Mahabusu magerezani, imedhihirika kwamba shughuli za usalama zinazodhibitiwa na Polisi, Mahakama na Magereza zimezorota kiasi kutokana na hali ngumu ya uchumi iliyopunguza uwezo wa Serikali kuvihudumia vyombo hivyo ipasavyo. Katika mpango wa kujikwamua kiuchumi Serikali imeelekeza uwezo wake zaidi katika sekta za uzalishaji badala ya sekta nyingine. Pamoja na msimamo huu, tatizo la msongamano wa wafungwa/mahabusu Magerezani limisababishwa pia na yafuatayo: -
- 2.2 Ufinyu wa Magereza na nafasi za kuwaweka wahalifu kutokana na ukweli kwamba karibu magereza yote nchini yalijengwa miaka mingi iliyopita (mengi yaliyengwa kabla ya uhuru) kulingana na hali ya kisiasa, kiuchumi na kijamii ya wakati ule. Rejea kiambatanisho A kionyeshacho uwezo wa magereza kimkoa na wingi wa wafungwa/mahabusu kwenye magereza hayo.
- 2.3 Operesheni mbali mbali na misako ifanywayo na Serikali katika jitihada zake za kukabiliana na milipuko ya uhalifu kama vile ujambazi, wizi wa mifungo, uhujumu uchumim uzururaji ukwepaji kodi, ulanguzi n.k.
- 2.4 Mwongezeko wa wizi wa mifugo hasa katika Mikoa ya Mwanza, Shinyanga, Mara, Singida, Arusha na Tabora. Kwa mfano tukio moja la wizi wa Mifugo ambao mara nyingi huambatana na mauaji linaweza kuwahusisha watuhumiwa hata zaidi ya mia moja kuwekwa mahabusu.
- 2.5 Kuchelewa kwa upelelezi na kusikilizwa kwa kesi mahakamani kunakosababishwa pamoja na mambo mengine na upungufu wa watumishi wenye ujuzi katika Idara za Mahakama, Polisi, Mwanasheria Mkuu, Kikosi cha Kuzuia Rushwa n.k. Pia uhaba wa wataalamu wa maabara, wataalam wa kuchunguza silaha, wataalam wa kuchunguza maandishi, wataalam wa kuchunguza alama za vidole na wataalamu wa kuchunguza maiti ili kujua sababu za

kifo.

- 2.6 Serikali za Mitaa na Idara za Serikali kuu kushindwa kuwapokea wafungwa ambao wangeweza kutumika kifungo cha nje. (extra-mural Penal Employment). Pia kuna udhaifu wa Mahakama na hasa mahakama za mwanzo na za Wilaya kutotumia uwezo wao wa kutoa adhabu nje ya kifungo. Adhabu zinazoweza kutolewa badala ya kifungo ni kama vile kuwaachia wahalifu kwa masharti, vifungo vya kuahirishwa (suspended sentences) na utaratibu wa kuwabana wahalifu kwa masharti (Bind-over)
- 2.7 Idara ya Ustawi wa Jamii (probation) na mahakama kutoshirikiana ipasavyo katika kuwachambua wahalifu ili kuiwezesha mahakama kuamua nani wahukumiwe kifungo na kwenda Magereza au nani apewe adhabu nyingine nje ya kifungo kama vile wahalifu wa mara ya kwanza, watoto wadogo, wazee na kinamama wenye watoto wadogo. Aidha Remand Homes ni chache mno kiasi kwamba watoto wanaohakikiwa kuwa ni wahalifu hulazimika kupelekwa magerezani kinyume cha sheria.
- 2.8 Kushindwa kwa wakaguzi walioteuliwa kisheria (Visiting Justices) kutembelea Magereza mara kwa mara. Aidha kutokuwepo na utaratibu unaoeleweka wa kutembelea Magereza na ukosefu wa matisha kumewafanya wakaguzi wa Magereza kukosa hamasa ya kutekeleza wajibu wao.
- 2.9 Ugumu, urasimu na ukali wa sheria zetu za hapa nchini unasababisha wahalifu wengi kupewa vifungo vya muda mrefu kama vile sharia ya kima cha chini cha Adhabu ya mwaka 1972. Pia sheria ya wahujumu Uchumi ya mwaka 1984 hairuhusu mahakama yoyote mbali ya Mahakama Kuu kutoa dhaman kwa wahalifu wanaokabiliwa na kesi Mahakamani chini ya sheria hii. (rejea kiambatanisho B).
- 2.10 Masharti ya msamaha (Amnesty) kukwekewa vipengele vingi kiasi kwamba wafungwa wengi hawafaidiki na msamaha wenyewe.
- 2.11 Vyombo vyenye uwezo wa kutoa uamuzi wa kumshitaki au kutomshitaki mhalifu kutotumia au kuchelwa kutumia madaraka vilivyopewa kwa kuogopa lawama.
- 2.12 Upungufu wa nyenzo za kufanyia kazi kama vile usafiri, vyombo vya mawasiliano, na ofisi za kufanyia kazi ni baadhi ya matatizo yanayokwamisha shughuli za Polisi, Magereza na Mahakama. Kwa mfano Mahakimu saba (7) wa Arusha mjini wana vyumba viwili tu vya mahakama ambavyo hufanyia kazi kwa kupokezana.

3. ATHARI ZA MSONGAMANO MAGEREZANI

Msongamano wa wafungwa/mahabusu Magerezani huleta athari zifuatazo: -

- 3.1 Kuambukizana kwa maradhi: Katika Magereza mengi imedhihirika kwamba msongamano ni mkubwa hivyo kwamba wafungwa na mahabusu hubanana au kulaliana. Kisheria kila mfungwa anastahili kupata nafasi ya kulala yenye eneo la futi za mraba 30.

Kwa mfano katika gereza la Arusha wafungwa 76 hulala kwenye chumba ambacho kisheria wangelala wafungwa 15. Tarehe 5 Mei 1986 wajumbe wa kamati hii walipotembelea gereza

la Keko walikuta wafungwa 1479 wamelazwa kwenye gereza hili lenye uwezo kisheria wa kulaza wafungwa/mahabusu 248 tu (Rejea kiambatanisho C). Hali kama hii ni rahisi kueneza magonjwa ya kuambukiza kama vile kipindupindu, kifua kikuu, upele na kuharisha.

- 3.2 Idadi ya wafungwa na mahabusu inapoongezeka ghafla hudhoofisha ulinzi, huduma za chakula, vifaa vya kulia, vifaa vya malazi, madawa na huduma nyinginezo muhimu. jila huwafanya wasipate haki zao kikamilifu k.m. nafasi za kulala kufanywa kuwa finyu mno.
- 3.3 Kutokana na msongamano magerezani inakuwa vigumu kwa viongozi wa magereza kuzingatia kikamilifu maadili ya urekebishaji wa wafungwa. Kwa mfano inakuwa si rahisi kuwatenga wafungwa waliohukumiwa na mahabusu, au kuwatenga wahalifu kufuatana na tabia, umri au aina ya makosa yaliyowaweka gerezani.
- 3.4 Kutokana na idadi kubwa ya mahabusu kukaa gerezani kwa muda mrefu, Taifa linapata hasara ya kugharamia huduma muhimu kwa watu ambao hawatoi mchango wowote kwa Taifa. Gharama ya chakula kwa Mahabusu na wafungwa imepanda kutoka shs. 20.8m/- mwaka 1980/81 na kufikia shs. 311.7m/- mwaka 1984/85 (Rejea Kiambatanisho D).
- 3.5 Hali ya msongomano iliyopo magerezani inasababisha Taifa kushindwa kutoa huduma muhimu inavyostahili na kuweza kuleta lawama kwa Chama na Serikali kutoka nje na ndani ya nchi.
- 3.6 Hali ya Msongamano magerezani husababisha mahabusu na wafungwa kushawishika kutoroka ili kukwepa athari za msongamano kama vile ukosefu wa nafasi nzuri ya kulala n.k.
- 3.7 Msongamano wa wafungwa/mahabusu magerezani unasababisha kutokuwepo uwiano mzuri kati ya Idara ya wafungwa na Idara ya Askari, hivyo kuwafanya askari wachache walipo kubeba mzigo mzito kiulinzi kuliko uwezo wao kisheria. Hali hii inasababishwa pia na uwezo mdogo wa Taifa wa kuajiri Askari wa kutosha.

4. MAPENDEKEZO

Wakati umefika kwa Serikali kufikiria kulipa suala la wafungwa/mahabusu umuhimu unaostahili. Katika kufanya hivyo tunatoa mapendekezo ya aina mbili: -

- (i) Mapendekezo ya muda mfupi;
- (ii) Mapendekezo ya muda mrefu;

4.1 MAPENDEKEZO YA MUDA MFUPI

- 4.1.1 (a) Kutokana na hali hizi ya msongamano katika magereza nchini hivi sasa njia moja pekee ya kupunguza tatizo hili katika muda mfupi ujao ni kwa mahakimu wa mahakama zote kupanga Crash Programme ya kumaliza kesi ambazo zimechukua muda mrefu bila kumalizika. Utaratibu unayoweza kupata sehemu za muda ambapo Mahakimu

watafanyia kazi hiyo. Pia kuna umuhimu wa kufanya semina ya utekelezaji itakayoshirikisha vyombo vya Mahakama, Polisi na Magereza ili kubuni mbinu za dharura za kupunguza msongamano wa mahabusu Magerezani.

(b) Wizara ya Mambo ya Ndani, Wizara ya Sheria na Mahakama zifanye vikao na kuwachambua mahabusu kulingana na uzito wa kesi zao. Kesi zenye uzito mkubwa ziendeleo kusikilizwa kwenye Mahakama kufuatana na utaratibu uliopo. Kesi nyinginezo ziingizwe katika Crash Programme .

- 4.1.2 Watu wasikamatwe bila ushahidi wa kutosha, isipokuwa pale inapoluwa lazima.
- 4.1.3 Kifungu cha 148 (5) Criminal Procedure Act (1985) kizingatiwe na Polisi/Mahakama ili kuwezesha washtakiwa wanaokabiliwa na kesi mbalimbali zinazoruhusiwa dhamana wapewe dhamana.
- 4.1.4 Kifungu cha 148 (5) (b) kiangaliwe upya kwa kuwa kinawanyima haki ya dhamana watu ambao wamewahi kufungwa kwa zaidi ya miaka mitatu. Uzoefu unaonyesha kwamba kuna idadi kubwa ya washtakiwa wa namna hii ambao wasipopewa dhamana kulingana na sheria ilivyo hivi sasa, watalazimika kupelekwa Magerezani na hivyo kuzidisha msongamano.
- 4.1.5 Katika makosa madogo madogo, Mahakama zizingatie zaidi adhabu ambazo hazitawafikisha wahalifu Magerezani kama vile kuwaachilia kwa masharti, kutoa Suspended Sentences na kuchapa viboko hasa kwa watoto.
- 4.1.6 (a) Sheria ya Wahujumu Uchumi (The Economic and Organized Crime Act 1984), iangaliwe upya ili ifanyiwe marekebisho na vyombo vilivyopewa madaraka kutekeleza sheria hiyo vitumie uwezo viliopewa mara kwa mara ilikuwezesha kesi ndogo ndogo kusikilizwa na Mahakama za chini. Urasimu na mzunguko mkubwa unaotumika katika ii upunguzwe au uondolewa kwani unasababisha washtakiwa kukaa gereza kwa muda mrefu isivyo lazima.
- (b) (i) Sheria ya kima cha chini cha adhabu (Minimum Sentences Act 1972) irekebishwe katika kifungu cha 6 ili watu wanaopatikana na hatia kwa makosa yaliyooredheshwa kwenye sheria hiyo na ikadhihirika kuwa thamani ya mali inayohusika si kubwa sana, wasiughulikiwe nje ya sheria hiyo. Kiwango cha shs. 100/= kilichowekwa wakati sheria hii iliotungwa mwaka 1972 kuwa hayatalazimika kushughulikiwa chini ya sheria hiyo, ni kidogo mno ukilinganisha na thamani halisi ya fedha zetu kwa wakati huu.
- (ii) Kiwango cha shs. 5,000/= kilichoelezwa katika kifungu cha 5 cha sheria ya kima cha chini cha Adhabu M.S.A. 1972), ambacho kinaweka kiwango cha adhabu ya kifungu cha miaka 5 au zaidi nalo kipandishwe.
- 4.1.7 Washtakiwa wa makosa madogo madogo kama wanaokamatwa kwa kutolipa kodi ya maendeleo, wazuraji na wanaovunja sheria za Serikali za Mitaa (By-laws): -

- a. wasipelekwe magerezani kama mahabusu bali kesi zao zisikilizwe ili kuhumu itolewe mara moja.
 - c. Kila inapowezekana wale wanaopatikana na hatia wapewe adhabu ambayo siyo kifungo.
 - d. Iwapo adhabu haitaangukia kifungu (b) basi waende Gereza kama wafungwa ili kuwezesha utawala wa magereza kuwapeleka katika Magereza ambayo hayana msongamano na kuwatumia katika shughuli za uzalishaji mali pamoja na marekebisho.
- (e) Serikali za Mitaa na Idara nyingine za Serikali zitenge fedha kwa ajili ya wafungwa wa kifungo cha nje.
- 4:1:8 Watoto wenye umri chini ya miaka 16 wanaokabiliwa na makosa ya jinai wahifadhiwe kwenye Remand Homes badala ya Gereza wakati wakisubiri kusikilizwa kesi zao. Kwa kuwa hivi sasa Remand Homes ni chache sana nchini, watoto wengi watukutu hupelekwa magerezani. Ili kulikabili tatizo hili zianzishwe Remand Homes za muda sehemu zile zenye uhalifu mkubwa wa watoto.
- 4:1:9 Ili kuharakisha upelelezi wa kesi za Jinai tunapendekeza kwamba jeshi la Polisi liimarishwe kwa kuongezewa watumishi, vifaa vya kufanyia kazi (usafiri, vyombo vya mawasiliano, stationery, n.k) utaalam katika fani mbali mbali (Kuchunguza maandishi, kuchunguza silaha, kuchunguza sehemu za matukio i.e. (scenes of crime). Mafunzo ya utaalam uliotajwa hapo juu yatolewe kwa kiwango cha kuridhisha.
- 4:1:10 Ili kuharakisha kumalizika kwa kesi zilizoko Mahakamani tunapendekeza yafuatayo:-
- (a) Mahakimu na Mawakili wa Serikali wapewe usafiri utakaowawezesha kuwahi kazini jambo ambalo litaharakisha kumalizika kusikilizwa kwa kesi zilizopo Mahakamani.
 - (b) Imeonekana kwamba kesi nyingi huchelewa kusikilizwa kutokana na Mahakama kushindwa kuwaita mashahidi kutokana na ukosefu wa fedha za kutosha katika fungu la kuwalipa mashahidi posho. Vilevile viwango cha kulipa mashahidi na wazee wa baraza viongezwe kwa vile ni vidogo mno. K.m. mzee wa baraza hulipwa shs. 25/= kutwa.
 - (c) Kuwepo utaratibu wa kusimamia shughuli za Mahakimu na kuhakikisha kuwa wanafanya kazi zao kwa ufanisi zaidi.
 - (d) Sheria yenye kuagiza zimalizike katika muda wa siku 60 izingatiwe kikamilifu.
- 4:1:11 Idara ya Ustawi wa jamii iimarishwe ili maofisa wa probation kutoka Idara hii washiriki kikamilifu katika kusaidia Mahakama kufikia uamuzi wakati wa kutoa hukumu. Kushiriki kwao kutashawishi Mahakimu kupunguza utoaji wa adhabu za vifungo hasa kwa wahalifu wa mara ya kwanza, watoto wadogo, wazee na kinamama wajawazito na wenye kunyonyesha.
- 4:1:12 Msongamano wa Mahabusu Magerazani unazidishwa kwa kiwango kikubwa na Mahabusu wanosubiri kesi zao hukaa gereza kwa muda mrefu, na wengine wamekaa gereza hadi kufikia miaka 8. mahakama Kuu iangalie uwezekano wa kupanga kwa dharura utaratibu

wa kusikiliza kesi ambazo zimechukua muda mrefu bila kumalizika. Pia utizamwe uwezekano wa kuwapa Mahakimu Wakazi Waanamizi madaraka ya kusikiliza baadhi ya kesi za mahakama Kuu kwa kuwa sheria inaruhusu hivyo, ili kuharakisha kumalizika kwa kesi hizo.

4:1:13 Itungwe Sheria itakayoruhudu wanawake wenye watoto wachanga kutumikia vifungo vyao nje ya Magereza. Kwa baadhi ya makosa, Wizara ya Sheria iangalie uwezekano wa kuweka kipengele hiki kwenye orodha ya wafungwa wanostahili kupewa kifungo cha nje.

4:2 MAPENDEKEZO YA MUDA MREFU

4:2:1 Msongamano wa wafungwa magerezani umesababishwa kwa kiasi kikubwa na kuzorota kwa hali ya uchumi. Hali hiyo ya uchumi imesababisha juhudi za Taifa kuelekezwa katika sekta za uzalishaji mali na kutovipa umuhimu unaostahili vyombo vya usalama wa raia, Magereza yakiwa moja ya vyombo hivyo. Hali hii inaweza kurekebisha kwa kutekeleza mipango iliyowekwa na Taifa ya kufufua Uchumi, kuongeza pato la nchi na kupunguza hali ngumu ya uchumi. Juhudi hizo ni pamoja na:-

- (a) Kutekeleza kikamilifu sheria ya Nguvu Kazi ili kuhalikisha kwamba kila mtu mwenye uwezo wa kufanya kazi anafanya kazi kujipatia mahitaji yake, kupunguza uzururaji mijini, kupunguza uhamaji kutoka vijijini kwenda miji i na kuongeza pato la wananchi hasa wakulima ikiwa ni pamoja na kuwapa huduma muhimu. Imedhihirika kwamba utekelezaji hafifu wa sheria ya Nguvukazi ni moja ya sababu kubwa ya kuongezeka uhalifu nchini. Utekelezaji wa Nguvukazi uzingatie zaidi tatizo la vijana wanaomaliza shule ambao ni zaidi ya laki sita kila mwaka. Serikali iangalie uwezekano wa kuwa na chombo kinachofanana na SIDO ambacho kitajishughulisha na nmaendeleo ya kilimo hasa kwa vijana. Vile vile Serikali iangalie jinsi ya kuipa Nguvukazi msukomo unaostahili., Kwa kuwa Nguvukazi ni suala zito na nyeti lenye kushirikisha Sekta zote, usimamizi wake ungepaswa kuwa chini ya chom o kizito kama vile ofisi ya Waziri Mkuu au Ofisi ya Rais.
- (b) Utekelezaji mzuri wa Sera ya Taifa ya Kilimo na uzalishaji mali viwandani utasaidia kupunguza vishawishi vya uhalifu nchini.
- (c) Wizara ya Kazi na Maendeleo ya Vijana na Wizara ya Serikali za Mitaa na Maendeleo ya Ushirika zikishirikiana na vyombo vingine vya umma kama vile Magereza, JKT, Kilimo na Viwanda waanzishe miradi ya kuwapatia kazi vijana wanaomaliza shule vijijini na mijini.

4:2:2 Wizara ya Elimu, Afya na Ustawi wa Jamii, Wizara ya Maendeleo ya Jamii, Wanawake na Watoto, Kazi/Vijana na Sheria, viwe na mpango maalum wa kufundisha wanafunzi mashuleni na raia wengine kwajumla maadili mema, ufuataji sheria na Uraia mwema ili kusaidia kujenga tabia ya kujiepusha na vitendo vya uhalifu.

4:2:3 Kuna haja ya kujenga mahakama za kutosha katika ngazi ya Mkoa, Wilaya na Mahakama za Mwanzo.

4:2:4 (a) Yajengwe Magereza ya mahabusu ya kudumu kwenye sehemu zile zenye msongamano mkubwa wa mahabusu.

- (b) Kuna haja ya kuwa na Gereza la mahabusu katika kila Wilaya nchini. Uwezo wa Gereza utegemea kiwango cha uhalifu (Crime Rate) katika kila wilaya.

4:2:5 Kuna haja ya kuwa na Maximum Security Prison katika kila kanda yenye uwezo wa kuweka wafungwa waliohukumiwa 2,000. Kanda hizo ni:-

Kanda ya Kaskazini	—	(Tanga, Kilimanjaro, Arusha).
Kanda ya Ziwa	—	(Shinyanga, Mwanza, Kagera, Mara).
Kanda ya Kati	—	(Dodoma, Singida, Tabora, Kigoma).
Kanda ya Kusini	—	Nyanda za Juu — (Iringa, Mbeya, Rukwa).
Kanda ya Kusini	—	(Lindi, Mtwara, Ruvuma)
Kanda ya Pwani	—	(Dar es Salaam, Pwani, Morogoro).

4:2:6 Magereza mengi yaliyopo ambayo yamejengwa siku nyingi sana yanahitaji kupanuliwa na kuimarishwa kwa kuwa ni finyu na yamechakaa sana. Lengo liwe ni kuyapa uwezo wa kuweka wafungwa 20,000.

4:2:7 Kila Mkoa uwe na angalau gereza moja la wazi la kilimo lenye uwezo wa kuweka wafungwa elfu moja.

N.B. Jumla ya wafungwa waliohukumiwa waliopo magerezani hivi sasa inakaribia 35,000. Tukichukua ongezeko la wastani wa asilimia 30 katika kila kipindi cha miaka 10 inakadiriwa kwamba katika mwaka wa 2,000 jumla ya wafungwa watakaokuwa wanatumikia vinungo itakaribia 50,000. Hesabu hii itatosheleza na:-

- (i) Maximum Security Prison 6 zenye uwezo wa kuweka wafungwa 2,000 kila moja 12,000
- (iii) Magereza mengine 20 yenye uwezo wa kuweka wafungwa 1,000 kila moja 20,000
- (iv) Magereza ya wazi ya kilimo yenye uwezo wa kuweka wafungwa 20,000 20,000
JUMLA 52,000

4:2:8 Serikali inapoanzisha Wilaya au Mkoa mpya au inapojenga Makao Makuu ya Wilaya au Mkoa iweke katika mipango yake ujenzi wa jingo la Mahakama, kituo cha Polisi na Gereza.

4:2:9 Kuna haja ya kuongeza Remand Homes na Approved Schools kwa ajili ya watoto watukutu na wahalifu.

4:2:10 Kufuatana na mfumo wetu wa Sheria za Jinai, mwelekeo umekuwa ni kuweka adhabu ya kifugo cha muda mrefu yenye kufanya wingi wa wanaofungwa kuzidi idadi ya wanaofunguliwa na hivyo kukosa uwiano kati ya wanaoingia gerezani na wanaoachiliwa. Kwa hiyo lingekuwa jambo zuri kama utaratibu wa kuachia wafungwa kwamasharti ujukukanao kama PAROLE uengeanzishwa nchini ili wafungwa wanaostahili waweze kufaidika na utaratibu huo.

5. MWISHO

4:5:1 Mapendekezo yote ambayo yametolewa katika taarifa hii ni kujaribu kukabili matokeo ya uhalifu mchini, jambo ambalo ni sawa na kutibu ugonjwa ambao umekwishazuka. Juhudi za Serikali katika kuhimiza Sheria ya Nguvukazi, utekelezaji wa sera ya Taifa ya Kilimo na Sera ya kuinua uzalishaji Viwandani, itasaidia sana kupunguza uhalifu nchini. La msingi zaidi hata hivyo ni kutafuta mbinu za kuchukua hatua za kidharura kama ilivyotokea sasa. Inapendekezwa kianzishwe Chuo cha Taifa ambacho kitakuwa na majukumu yafuatayo:-

- (i) Kufundisha utaalam katika fani mbali mbali za kuzuia na kupunguza uhalifu.
 - (ii) Kufuatilia mwenendo wa uhalifu nchini.
 - (iii) Kufuatilia sababu za uhalifu.
 - (iv) Kutoa mafunzo kuhusu utunzaji wa wafungwa (treatment of offenders).
 - (v) Kujenga uhusiano wa karibu na vyombo vya aina hivyo vya Kimataifa kama vile, UNITED NATIONS INSTITUTES FOR CRIME PREVENTION AND THE TREATMENT OF OFFENDERS . Hali kadhalika vyombo vya aina hiyo vya nchi nyingine.
 - (vi) Kuishauri Serikali hatua za kuchukua dhidi ya uhalifu.
- 5:2 Kwa kuwa vita dhidi ya uhalifu nchini si kazi ya Serikali pekee tunapendekeza kwamba mchango wa wanachi na Masharika yasiyo ya Serikali utambuliwe, uhimizwe na uhamasishwe.
- 5:3 Ujengwe utaratibu wa kudumu kuviwezesha vyombo vya utekelezaji sheria nchini i.e. Polisi, Mahakama na Magereza kwenda kuona na kujifunza jinsi nchi nyingine zinavyokabiliana na tatizo la uhalifu.
- 5:4 Ujengwe utaratibu wa kudumu kuviwezesha vyombo vya utekelezaji sheria nchini i.e. Polisi, Mahakama na Magereza kwenda kuona na kujifunza jinsi nchi nyingine zinavyokabiliana na tatizo la uhalifu.

**MAFUNGULIO YA WAFUNGWA / MAHABUSU MAGEREZANI
TANZANIA BARA KWA TAREHE 1/4/1986**

MKOA									
ARUSHA	110	448	213	-	967	-	-	1738	-
D SALAAM	615	719	245	6	1588	13	5	3111	1080
DODOMA	158	388	526	100	1699	4	2	2877	1123
IRINGA	94	521	128	-	1571	-	-	2314	725
KAGERA	325	558	129	5	1168	-	37	2216	1075
KIGOMA	103	209	10	-	624	-	-	946	759
KILIMANJARO	162	550	163	-	980	-	-	1855	950
LINDI	102	48	15	6	1020	2	4	1197	357
MARA	105	729	81	-	1113	-	27	1055	1156
MBEYA	107	185	254	1	1799	-	38	1384	1001
MOROGORO	120	303	159	-	3839	-	-	4421	3294
MTWARA	103	179	83	-	1150	3	5	1523	1004
MWANZA	391	597	214	21	1417	-	-	2640	1372
PWANI	62	66	-	-	1833	-	-	1961	779
RUKWA	81	104	61	-	979	-	-	1225	550
RUVUMA	53	146	37	-	999	-	-	1235	790
SHINYANGA	134	780	177	-	1200	-	4	2295	896
TABORA	133	373	152	7	1235	1	1	1902	1127
TANGA	191	341	125	9	1554	-	10	2230	1179
SINGIDA	127	444	73	-	743	-	-	1387	390
JUMLA	3276	7688	2839	155	27398	23	133	41512	1973

KIAMBATANISHO B

(Ona Ibara ya 2.9 ya Sababu za
Msongamano Magerezani).

**UCHELEWESHAJI WA KESI ZA HUJUMA ZA UCHUMI KWA
MUJIBU WA SHERIA YA HUJUMA ZA UCHUMI —THE ECONOMIC AND
ORGANISED CRIME CONTROL ACT, 1984**

Kwa mujibu wa Sheria hii, mtuhumiwa akikamatwa kwa kosa lolote ambalo limeorodheshwa katika Sheria hii, hufikishwa mbele ya Mahakama ya Wilaya au ya Hakimu Mkazi kusomewa shitaka lake. Wakati huo huo huambiwa haki zake za kutuma maombi yake ya kuwa nje kwa dhamana. Maombi hayo hupelekwa Mahakama Kuu ya Tanzania kwa uamuzi. Mtuhumiwa huyu

akishindwa kupata dhamana hiyo aidha kwa kukataliwa na Mahakama Kuu au kushindwa kutimiza masharti ya dhamana hiyo huendelea kukaa Gereza kwa muda usiojulikana. Muda huu ambao haujulikani ni muda ambao utatumika kupeleleza kesi hiyo, na mawasiliano kati ya Ofisi za Mwanasheria Mkuu wa Serikali zilizoko Mikoani na Mkurugenzi wa Uendeshaji wa makosa ya Jinai (DPP) katika kufikia uamuzi aidha mtuhumiwa ashtakiwe kwa kosa hilo au la.

Kwa mujibu wa kifungu cha 2 (6) hakuna mtu yeyote ambaye anaweza kufuta shitaka dhidi ya mshtakiwa isipoliwa (DPP) Mkurugenzi wa Uendeshaji Mashtaka ya Jinai. Mtuhumiwa huchukuliwa kuwa anatakiwa kujibu shitaka lake mbele ya Mahakama Kuu ya Tanzania, baada ya Ofisi ya Mwanasheria Mkuu wa Serikali kupeleka taarifa mahakama Kuu ya Tanzania kuwa mtuhumiwa anakabiliwa na kosa fulani.

Tatizo ambalo linajitokeza katika Sheria hii, ni kwamba baada ya upelelezi kukamilika, jalada la mtuhumiwa hutoka mikononi mwa Polisi na kupelekwa kwenye ofisi za kanda za Mwanasheria Mkuu wa Serikali. Majalada haya hupelekwa huko kuchambuliwa na Ofisi hizo ambazo hutuma mapendekezo ya kila jalada kwa Mkurugenzi wa Uendeshaji wa makosa ya Jinai (DPP) ambaye hutoa kibali cha mwisho kuendesha kesi dhidi ya mtuhumiwa. Wakati hatua hizi zinapochukuliwa, mtuhumiwa ambaye hakupata mdhamana wa kuwa nje wakati anasubiri uamuzi aidha ashtakiwa au asishitakiwe kwa kosa linalomkabili, huendelea kukaa katika Magereza ya Tanzania kama mahabusu kwa muda usiojulikana. Hivi sasa katika Magereza ya nchi hii kuna Mahabusu wengi wa aina hii.

Hivyo utaona kwamba utaratibu unaotakiwa kufuatwa katika kuendesha aina za makosa ya Jinai kama vile makosa ya Hujuma za Uchumi ni mrefu sana. Kwa hiyo urefu au mzunguko wa sheria hii ni chanzo mojawapo kikubwa cha kurundikana kwa Mahabusu katika Magereza yetu. Mahabusu hawa hukaa Gereza kwa muda mrefu na usiojulikana. Ukweli wa usemi huu unadhihirishwa wazi na maneno yanayotumika katika hati ya kumweka gereza. Sehemu ya hati hiyo husomeka ifuatavyo AB to be remanded until further notice .

Zaidi ya haya, haieleweki iwapo kifungu cha 225 (4) cha Sheria ya Mwenendo wa Jinai (Criminal procedure Act, 1985 kinaweza kutumiwa na watuhumiwa wa makosa yaliyoorodheshwa katika sheria ya Hujuma za Uchumi (The Economic and Organized Crime Control Act, 1984). Kwa maoni yangu baada ya kusoma kifungu cha 20 cha Sheria ya Hujuma za uchumi, watuhumiwa wanaweza kutumia kifungu 225 (4). Swali la kujiuliza ni kwamba, je, muda ambao unatumika tangu mtuhumiwa anaposomewa shitaka lake mpaka kutolewa kwa kibali cha kushitakiwa kwa kosa hilo, inaweza kuwa sababu maalum kwa mujibu wa kifungu 225 (4).

Kwa ufupi, utaratibu mrefu uliopo katika kuendesha kesi za uchumi ni chanzo mojawapo kikubwa cha kujaa kwa Mahabusu Gereza.

MAPENDEKEZO

Mzunguko wa kuendesha kesi hizi upunguzwe kwa kurekebisha sheria yenyewe. Makos ahaya yaendeshwe mara moja baada ya ushahidi wa kutosha kupatikana. Mahakama ziachiwe jukumu la kuamua aidha mtu huyo anahatia au la, badala ya uamuzi wa awali kufanywa na Mkurugenzi wa Uendeshaji wa akosa ya jinai. Ingawaje uamuzi wa kumshitaki Mtuhumiwa na uamuzi wa kumtia hatiani ni vitu viwili tofauti lakini madhumuni yake ya mwisho ni sawa ambayo ni kumwadhibu mkosaji.

kumwadhibu mkosaji.

KIAMBATANISHO C
(Ona Ibara ya 3.1 ya Athari za
Msongamano Magerezani)

UWIANO KATI YA ENEO LA CHUMBA (CELL)
NA WAFUNGWA/MAHABUSU —WALIOMO

GEREZA	ENEO LA CHUMA SQ.FT	WANA- STAHILI	WALIO- KUWAMO	MAELEZO
Isanga (Dodoma)	450	15	25	TB. Wing
Singida	300	10	56	
Arusha	450	15	76	
Karanga (Moshi)	90	3	11	
Maweni Tanga	600	20	42	
	30	1	5	TB. Wing
Iringa	240	8	58	
Ruanda (Mbeya)	630	21	81	
Keko (D Salaam)	450	15	33	
Butimba (Mwanza)	630	21	64	
Ukonga (D salaam)	600	20	43	

**TAARIFA YA KAMATI YA MAOFISA
WATENDAJI WAKUU (EXECUTIVE
COMMITTEE)
KUHUSU MSONGAMANO WA WAFUNGWA NA
MAHABUSU GEREZANI —TANZANIA BARA**

MAHABUSU GEREZANI —TANZANIA BARA

YALIYOMO

1.	UTANGULIZI	UKURASA	1 — 4
2.	SABABU ZA MSONGAMANO	UKURASA	4 — 7
3.	ATHARI ZA MSONGAMANO	UKURASA	7 — 8
4.	MAPENDEKEZO: -		
	(ii) MAPENDEKEZO YA MUDA MFUPI	UKURASA	8 — 12
	(iii) MAPENDEKEZO YA MUDA MREFU	UKURASA	12 — 15
5.	MWISHO	UKURASA	15 — 16
6.	VIAMBATANISHO	UKURASA	17 — 0

KEY:

1. LINEAGRAPH REPRESENTS GROWTH OF AVERAGE MONTHLY PRISON POPULATION ANNUALLY.
2. BARGRAPH REPRESENTS GROWTH OF PRISONS RATION EXPENDITURE AS PER FISCAL YEARS. 1cm = 20m/=